

violations is obvious. In a populist democracy such as ours, respect for judicial process, and particularly those aspects of its protecting the rights of individuals, is a fragile thing at best. Journalists, who enjoy special protection under the First Amendment, have a special responsibility to respect due process. We can hardly expect other Americans to take fair play seriously when we ourselves show scant respect for the rights of others.

Then, there are the Watergate cases presently being tried. Defendants and their attorneys have made it abundantly plain they are prepared to use pre-trial publicity and every possible procedural issue to try to discredit the prosecution. Judges are, not without reason, edgy. It is at least possible that over-aggressive reporting could blow some of the cases, and even the whole impeachment proceeding.

If nothing else, more irresponsible reporting could make of the Special Watergate prosecution a hapless wreck. Like the Senate Watergate committee which lost so much prestige because of leaks, the prosecution could become, in the public eye, a bunch of nice guys who finish last deservedly.

Finally, there is at stake the quality of journalism with its not negligible impact on the tone of American life. Marked progress has been made, it seems to me, in extending the reach and seriousness of news coverage in recent years. The exposure of the Watergate cover-up was, itself, a press triumph—notably for this newspaper.

To lose those gains at just this time would be a terrible pity. But they will be lost unless we show more self-discipline—unless there is a curbing in the spirit of rivalrous competition and self-important narcissism now so rampant in the fourth estate.

[From the Evening Star-News, Apr. 8, 1974]

**MANSFIELD ASKS RESTRAINT IN HANDLING  
IMPEACHMENT**

(By Shirley Elder)

Senate Democratic leader Mike Mansfield today appealed for a dispassionate approach to the scandals of Watergate by Congress and the press.

Mansfield suggested that everyone concerned with Watergate and the possible impeachment of the president had become too "emotionally involved." He conceded that there is no way to avoid being involved, but suggested that everyone seek to avoid emotions.

All involved must ask themselves, he said in a Senate speech, whether they are being fair to the President. "Are we shunting aside the basic principle of law which presumes the innocence of the accused until found guilty?"

The Montana senator appeared upset at recent news stories quoting him as saying "the votes are there" for impeachment in the House. What he said, Mansfield recalled, was that he had been told the votes are there.

But, he emphasized, he does not know, and no one will know, whether the House will vote to impeach the President until the vote is taken.

Until then, Mansfield suggested that everyone avoid speculation.

"One year of Watergate is too much; one day of Watergate is too much," he commented. "But the issue will have to run its course."

He commended the special Watergate prosecutor and the House Judiciary Committee for doing their jobs well and particularly for the lack of "leaks" of impeachment evidence.

But he said he noticed with some concern that news media polls have been taken measuring how the Judiciary Committee stands and even how senators stand before any evidence is presented.

"There have also been editorials and commentaries on the issue of impeachment by the House and a trial by the Senate which, I think, anticipates the question," Mansfield said.

On related matters, Mansfield also said:  
1. "If and when" impeachment should reach the Senate for trial, he would favor televising Senate sessions.

2. "If and when" that time comes, he will suggest an executive session of all senators to discuss procedures.

3. He hopes the Senate Watergate committee will wrap up its work by May 28, report legislative recommendations to the Senate, and turn over all evidence to the House Judiciary Committee and the special prosecutor.

Mr. BIDEN. Mr. President, in conclusion, as the Acting President pro tempore well knows, I have been on occasion a harsh critic of the President. There is no great love lost for him on my part. I had no hesitation in criticizing him when I thought he was wrong, which I often thought.

I have not hesitated to criticize his policies, with which I disagreed more than I agreed. But I have a feeling that my children and my grandchildren will be looking back on what I said or did not say in April of 1974 with respect to what seems to be inevitable, that we must have an impeachment trial of the sitting President. I think that all of our grandchildren are going to look back on us to determine whether or not we meant what we said when we said that our constitutional system should be adhered to and that all men and women are innocent until proven guilty beyond a reasonable doubt.

I hope that if the trial occurs—which is not a certainty—that we will let that trial proceed as we would were we attorneys sitting back in the county courts of our own districts and not be fettered by outside influences and let those outside influences affect our verdict were we to be put in that position later in this calendar year.

Mr. DOLE. Mr. President, I wish to comment briefly. I listened to the distinguished Senator from Delaware (Mr. BIDEN) and I am pleased to know that he is going to listen to the evidence before he reaches a verdict. I would hope the Senator's attitude will prevail throughout the Senate. There should not be any need to call that to the attention of the Senate. I would trust that every Senator will recognize his duty and responsibility under the Constitution.

Aside from that, as far as fairness to the President or fairness to any defendant is concerned, we should also agree that the President of the United States is entitled to the degree of fairness and restraint by the distinguished Senator from Delaware.

As one who supported President Nixon and who supports many of his policies, I think we have to separate that from the considerations that would prevail at an impeachment trial. The Constitution is clear there, as indicated by one effort at impeachment, that of a Democrat, Andrew Johnson. He was at that time, as I recall, saved by the votes of six Republicans.

One of the Republicans was a Senator from Kansas named Edmund Ross. He

did not return to the Senate. He died later in New Mexico, in a state of some poverty.

In any event, I do not think that was a dispassionate trial, conducted in fairness. At that time, the Republicans then controlled the Senate and were very partisan. It was a partisan trial. There was not any great clamor around the country for the impeachment of Andrew Johnson, a Democrat; but there was a great clamor among the Republicans, because they wanted that office back.

History has indicated that probably it was a good thing that impeachment failed by one vote.

I think, as John F. Kennedy indicated in his book, "Profiles in Courage," that Edmund Ross and, I assume, the other five Republicans who failed to fall in line with the partisans, did themselves great credit as history was written.

That is the spirit we ought to observe in the event that an impeachment is presented to the Senate. I do not have any way of knowing if it will come to pass, of course.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will please call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ABOUREZK). Without objection, it is so ordered.

**ROUTINE MORNING BUSINESS**

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with speeches limited to 5 minutes each.

**COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.**

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate the following communication, which was referred as indicated:

PROPOSED SUPPLEMENTAL AND INDEFINITE APPROPRIATION, 1973 AND 1974 (S. Doc. 93-72)

A communication from the President of the United States proposing a supplemental and indefinite appropriation for the fiscal years 1973 and 1974 to cover costs arising out of retroactive pay increases for the period from October 1 through December 31, 1972 (with accompanying papers). Referred to the Committee on Appropriations, and ordered to be printed as a Senate document.

**PRESENTATION OF A PETITION**

By Mr. PASTORE (for himself and Mr. PELL):

A resolution of the House of Representatives of the State of Rhode Island. Referred to the Committee on Commerce:

74-H7961

House resolution memorializing the Congress to enact legislation requiring the Federal Government to subsidize all electric companies on the cost of their fuel adjustment

*Resolved*, That the house of representatives of the state of Rhode Island and Providence Plantations hereby memorializes congress to require the federal government to subsidize all electric companies on the cost of their fuel adjustment; and be it further *Resolved*, That the secretary of the state be and he hereby is authorized and directed to transmit a duly certified copy of this resolution to the Rhode Island delegation in Congress.

**AUTHORIZATION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO FILE A REPORT ON S. 3267 BY MIDNIGHT, APRIL 19, 1974**

Mr. JACKSON. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs may have until midnight, Friday, April 19, to file a report on S. 3267, the Standby Energy Emergency Authorities Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

**EXECUTIVE REPORTS OF COMMITTEES**

As in executive session,

The following favorable reports of the nominations were submitted:

By Mr. HARRY F. BYRD, JR., from the Committee on Armed Services:

John M. Maury, of Virginia, to be an Assistant Secretary of Defense.

(The above nomination as reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HARRY F. BYRD, JR. Mr. President, from the Committee on Armed Services, I report favorably the nomination of Vice Adm. Frederick J. Harlfinger II for appointment to the grade of vice admiral, when retired; 10 Naval Reserve temporary promotions to the grade of rear admiral—Colwell through Paulsen; and 6 temporary appointments in the Marine Corps to the grade of major general—Armstrong through Nichols. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, in addition, there are 646 appointments in the Army in the grade of captain and below; in the Navy there are 1,610 for permanent promotion to the grade of commander; and in the Naval Reserve there are 586 for temporary promotion to the grade of captain and below. Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing on the Executive Calendar, I ask that these names be placed on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to be placed on the Secretary's desk were printed at

the end of the Senate proceedings of March 26, 1974.)

By Mr. SPARKMAN, from the Committee on Foreign Relations:

John A. Scall, of the District of Columbia, William E. Schaufele, Jr., of Ohio, John H. Buchanan, Jr., U.S. Representative from the State of Alabama, Robert N. C. Nix, U.S. Representative from the State of Pennsylvania, and Clarence Clyde Ferguson, Jr., of New Jersey, to be Representatives of the United States of America to the Sixth Special Session of the General Assembly of the United Nations; and

Barbara M. White, of Massachusetts, to be the Alternate Representative of the United States of America to the Sixth Special Session of the General Assembly of the United Nations.

**INTRODUCTION OF BILLS AND JOINT RESOLUTIONS**

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. JAVITS (for himself, Mr. PERCY, Mr. GRAVEL, Mr. McGOVERN, and Mr. WILLIAMS):

S. 3337. A bill to provide Federal assistance to cities, combinations of cities, public agencies, and nonprofit private organizations for the purpose of improving police-community relations, encouraging citizen involvement in crime prevention programs, volunteer service programs, and in other cooperative efforts in the criminal justice system. Referred to the Committee on the Judiciary.

By Mr. FANNIN (for himself and Mr. GOLDWATER):

S. 3338. A bill for the relief of Evaristo Laborin, his wife, Amparo Laborin, and their children, Evaristo Laborin, Junior, Francisco Laborin, Catalina Laborin, Jesus Laborin, and Benito Laborin. Referred to the Committee on the Judiciary.

By Mr. HUMPHREY:

S. 3339. A bill to amend the program of supplemental security income for the aged, blind, and disabled (established by title XVI of the Social Security Act) to provide for cost-of-living increases in the benefits provided thereunder. Referred to the Committee on Finance.

By Mr. HUGH SCOTT:

S. 3340. A bill for the relief of Francisco Carpio and his wife, Zenaida T. Carpio. Referred to the Committee on the Judiciary.

By Mr. METCALF:

S. 3341. A bill to revise certain provisions of title 5, United States Code, relating to per diem and mileage expenses of employees and other individuals traveling on official business, and for other purposes. Referred to the Committee on Government Operations.

By Mr. HRUSKA:

S. 3342. A bill to establish a National Institute of Corrections, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. WEICKER (for himself, Mr. HATHAWAY, Mr. HARTKE, and Mr. RIBICOFF):

S. 3343. A bill to designate a national network of essential rail lines; to require minimum standards of maintenance on rail lines; to provide Federal financial aid for rail rehabilitation; to establish rights of access by rail carriers to rail lines and facilities, and for other purposes. Referred to the Committee on Commerce.

By Mr. KENNEDY:

S. 3344. A bill to authorize appropriations for activities of the National Science Foundation, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. MOSS:

S. 3345. A bill for the relief of John Oaka-

son and H. F. Mulholland. Referred to the Committee on Interior and Insular Affairs.

By Mr. TUNNEY:

S.J. Res. 205. Joint resolution authorizing the President to proclaim the last week of June of each year as "National Autistic Children's Week". Referred to the Committee on the Judiciary.

**STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS**

By Mr. JAVITS (for himself, Mr. PERCY, Mr. GRAVEL, Mr. McGOVERN, and Mr. WILLIAMS):

S. 3337. A bill to provide Federal assistance to cities, combinations of cities, public agencies, and nonprofit private organizations for the purpose of improving police-community relations, encouraging citizen involvement in crime prevention programs, volunteer service programs, and in other cooperative efforts in the criminal justice system. Referred to the Committee on the Judiciary.

**THE COMMUNITY ANTICRIME ASSISTANCE ACT**

Mr. JAVITS. Mr. President, 10 years ago a woman named Kitty Genovese was brutally murdered in New York City. Thirty-eight local residents heard her scream for help. But none moved to help her. The incident was cited throughout the Nation as evidence that New York City was callous, cold, and indifferent.

While I did not think it fair to indict my city as a whole for apathy in that tragic murder, that incident pointed up a dual reality: The paralyzing fear of crime which has been so much a part of the urban landscape during the last decade, and the total helplessness felt by many people as they struggled to deal with a phenomenon which intruded with enormous impact into their daily lives, and in some ways dramatically affected the way they related to one and other.

Today, 10 years later there is evidence that we have made important progress against crime—and that the tremendous increase in the allocation of Federal resources to crime control and crime prevention programs has materially furthered that progress.

Recent statistics from the Uniform Crime Index of the FBI show that serious crime is increasing at the rate of only about 1 percent per year—the lowest reported rate increase since 1960. Several major cities—including New York City have reported an actual reduction in certain categories of violent crime. Nevertheless, there is no question that America still carries too heavy a burden in the cost of crime and its related problems. We cannot take any comfort in the fact that our smaller cities and suburban areas are feeling new and increased crime pressures.

Today, also, there is impressive evidence that New Yorkers and other urban dwellers are more willing than ever to take a personal role in fighting crime and the fear of crime. Throughout the Nation, the great potential of the private sector—not only as represented by our citizens, but also by business, labor and civic organizations—is being harnessed by law enforcement and criminal justice agencies in most constructive and unprecedented programs to prevent crime. These should be fully utilized and ex-

personnel from guards to wardens, as the Department of Justice has done with police administrators.

This decision on the part of the President and the Attorney General could be one of the milestones in correctional history.

Early in 1972 representatives of the Law Enforcement Assistance Administration and the Federal Bureau of Prisons, together with other individuals concerned with corrections outside of the Federal Government, met in Dallas, Tex., to formulate plans to implement the concept of a National Institute of Corrections. Recognizing that the task of creating the institute would be, in the words of Chief Justice Burger, a "milestone in correctional history," it was agreed at the meeting that one of the first essentials would be the preparation of a comprehensive and detailed concept paper describing the functions and objectives of such an institute.

Prof. Norval Morris, director of the Center for Studies in Criminal Justice at the University of Chicago Law School was requested to prepare the concept paper. His paper, titled "Towards a National Institute of Corrections," set forth the following objective:

The mission of the National Institute of Corrections (NIC) is to provide national leadership in correctional education and research. To achieve this, NIC will itself undertake training, research, evaluation, standard setting, publication and clearing-house functions in corrections. NIC will also apply its funds and developing expertise and influence to support other agencies and organizations, national, state, local and voluntary engaged in correctional education and research.

The Morris concept paper cogently presented the collective views of those who participated in the discussions at the Williamsburg conference and the Dallas meeting. It produced a convincing case for the establishment of the institute.

On September 5, 1972, I introduced S. 3948, which would create a National Institute of Corrections. Similar bills containing substantially the same concept for a national institute were introduced by Senator BROOKE (S. 3313) and Senator HUMPHREY (S. 1422). In short, the concept of a National Institute of Corrections has wide-based support, not only among correctional administrators and researchers, but in the Congress and the executive branch as well.

The recent report published by the Corrections Task Force of the National Advisory Commission on Criminal Justice Standards and Goals recommends that a National Institute of Corrections be established. It is worthwhile to quote the statement of the Corrections Task Force in focusing upon the background, functions, and authority of a National Institute of Corrections:

A national academy of corrections has been proposed for many years. In December, 1971, at the first national conference on corrections, the Attorney General directed the Law Enforcement Assistance Administration and the U.S. Bureau of Prisons to work with the States in the establishment of the academy. An interim steering committee was appointed and pilot seminars have been conducted. The project has now been entitled the National Institute of Corrections.

The precise functions to be fulfilled by the institute have not yet been formally determined. Those proposed include:

1. Service as a clearinghouse for information on crime and corrections.
2. Provision of consultant services to Federal, State, and local agencies on all aspects of corrections.
3. Development of corrections programs.
4. Development and presentation of seminars, workshops, and training programs for all types of criminal justice personnel associated with corrections.
5. Technical training teams to assist the States in development of seminars, workshops, and training programs.
6. Funding of training programs.
7. Coordination and funding of correctional research.
8. Formulation and dissemination of policy, goals, and standards recommended for corrections.

A national institute with the authority and funds for this wide range of activities could serve as a powerful force in the coordination and implementation of a national corrections reform effort, and the Commission urges immediate action to make it a reality. At the present time, the expertise and information available to corrections is both limited and thinly dispersed. The institute could provide a center and a pooling of resources from which all States and correctional systems could draw.

At present none of the proposed functions of the institute are being fulfilled effectively elsewhere on a national basis. Technical expertise in corrections is simply not available in any organized form. The wide scope of the proposed functions would remedy this severe deficiency and give the institute the stature and presumably the prestige, to gain acceptance and a highly influential role in correctional reform.

It is also the view of the Commission that the institute when established should be given the responsibility for updating and revising the standards of this report periodically, in keeping with technical developments and advances in correctional knowledge.

Mr. President, I am pleased to reintroduce today a bill to establish a National Institute of Corrections. This bill seeks to establish that "milestone in correctional history" that was predicted in the 1971 Williamsburg Conference. In the years that have passed since the Williamsburg Conference the concept of National Institute of Corrections has developed beyond an abstract idea. The bill which is being introduced today contains the appropriate structure, functions, and powers to accomplish the ends of providing more adequate data about crime and delinquency, changing the role of corrections from incarceration to one of sharing in the responsibility for the reintegration of offenders, identifying and implementing correctional policies, goals and standards, and continuing education for corrections personnel.

The present bill proposes to establish within the Department of Justice a National Institute of Corrections. The institute will be under the supervision of a board. The board will be composed of 15 individuals, including members qualified as practitioners and experts in corrections, probation or parole. The institute will be under the supervision of a director appointed by the Attorney General after consultation with the Board.

The institute has the power to contract and make grants with governmental departments or private organizations; to serve as a clearinghouse and information center; to act as a consultant to the courts, departments, and agencies; to devise and conduct seminars, workshops,

and training programs for individuals involved in corrections; to develop technical training teams to aid in the development of seminars, workshops, and training programs; to conduct, encourage, and coordinate research in corrections; to formulate correction policies, goals and standards recommendations, and to conduct evaluation programs to study the effectiveness of new approaches, techniques and programs.

It is my firm belief, Mr. President, that the establishment of such an institute will one day be viewed by all those concerned with corrections as truly a monumental step by government in restructuring not only the means, but the ends, of reintegrating offenders into society.

I ask unanimous consent, Mr. President, that the text of the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3342

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "National Institute of Corrections Act".*

Sec. 102. The Congress finds and declares:

(1) That there is a lack of adequate data about crime and delinquency, the consequences of sentencing practices, and the outcome of correctional programs;

(2) That there is a need to change the role of corrections from one of incarcerating society's offenders to one of sharing responsibility for their reintegration;

(3) That there is a need to identify, develop, and implement uniform correctional policies, goals, and standards;

(4) That there is a need to establish a means of providing correctional personnel with continuing education and guidance on methods of treatment and reintegration of offenders;

(5) That to foster the achievement of these ends, a National Institute of Corrections should be created (i) to provide assistance to State and local departments and agencies, private organizations, and individuals performing correctional services or duties; (ii) to conduct its own programs or projects for the enhancement of correctional training, research, information collection and dissemination; and (iii) to formulate recommendations concerning correctional policies, goals, and standards.

Sec. 103. There is authorized to be established in the Department of Justice an institute to be known as the National Institute of Corrections (hereinafter referred to as the "Institute").

Sec. 104. (a) The overall policy and operations of the Institute shall be under the general supervision and direction of a Board.

(b) The Board shall consist of fifteen members.

(1) The following five individuals shall serve as members of the Board ex officio: The Director of the Federal Bureau of Prisons or his designee, the Administrator of the Law Enforcement Assistance Administration, or his designee, the Chairman of the United States Parole Board, or his designee, the Director of the Federal Judiciary Center, or his designee, and the Assistant Secretary for Human Development of the Department of Health, Education, and Welfare, or his designee.

(2) The remaining ten members of the Board shall be selected as follows:

(1) Five shall be appointed initially by the Attorney General of the United States for staggered terms; one member shall serve for one year, one member for two years, and three members for three years. Upon the ex-

piration of each member's term, the Attorney General shall appoint successors who will each serve for a term of three years. Each member selected shall be qualified as a practitioner in corrections, probation, or parole.

(1) Five shall be appointed initially by the Attorney General of the United States for staggered terms; one member shall serve for one year, three members for two years, and one member for three years. Upon the expiration of each member's term the Attorney General shall appoint successors who will each serve for a term of three years. Each member selected shall be from the private sector having demonstrated an active interest in corrections, probation, or parole.

(3) The members of the Board shall not, by reason of such membership, be deemed officers or employees of the United States. Members of the Board who are fulltime officers or employees of the United States shall serve without additional compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of the duties vested in the Board. Other members of the Board shall, while attending meetings of the Board or while engaged in duties related to such meetings or in other activities of the Board pursuant to this Act, be entitled to receive compensation at the rate not to exceed the daily equivalent of the rate authorized for level V by section 5316 of title 5, United States Code, including travel time, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence equal to that authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(4) The Board shall elect from among its members a Chairman and a Vice Chairman. The Board shall establish its governing rules of procedure.

Sec. 105. The Institute shall be under the supervision of an officer to be known as the Director, who shall be appointed by the Attorney General after consultation with the Board. The Director shall receive basic pay at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code. The Director shall have authority to supervise the organization, employees, enrollees, financial affairs, and all other operations of the Institute and may employ such staff, faculty, and administrative personnel, subject to the civil service and classification laws, as are necessary to the functioning of the Institute. The Director shall have the power to acquire and hold real and personal property for the Institute and may receive gifts, donations, and trusts on behalf of the Institute. The Director shall also have the power to appoint such technical or other councils comprised of consultants to guide and advise the Institute. The Director is authorized to delegate his powers under this Act to such persons as he deems appropriate.

Sec. 106. The Institute is authorized: (1) to receive from or make grants to and enter into contracts with Federal, State, and local departments and agencies, private organizations, and individuals to carry out the purposes of this Act;

(2) to serve as a clearinghouse and information center for the collection, preparation, and dissemination of information on corrections, probation and parole, including, but not limited to, programs for prevention of crime and recidivism, training of correctional personnel, and treatment and reintegration of criminal and juvenile offenders;

(3) to assist and serve in a consulting capacity to Federal, State, and local courts, departments, and agencies in the development, maintenance, and coordination of programs, facilities, and services, training, treatment, and reintegration with respect to criminal and juvenile offenders;

(4) to encourage and assist Federal, State,

and local government programs and services, and programs and services of other public and private agencies, institutions, and organizations in their efforts to develop and implement corrections, probation, and parole programs;

(5) to devise and conduct in various geographical locations, seminars, workshops, and training programs for law enforcement officers, judges and judicial personnel, corrections, probation and parole personnel welfare workers, and other persons, including ex-offenders and paraprofessional personnel, connected with the treatment and reintegration of criminal and juvenile offenders;

(6) to develop technical training teams to aid in the development of seminars, workshops, and training programs within the several States and with the State and local departments and agencies which work with prisoners, probationers, parolees, and other offenders;

(7) to conduct, encourage, and coordinate research relating to corrections, probation and parole, including the causes, prevention, diagnosis, treatment and reintegration of criminal and juvenile offenders;

(8) to formulate and disseminate correctional policies, goals, and standards recommendations for Federal, State, and local departments and agencies, private organizations, and individuals; and

(9) to conduct evaluation programs which study the effectiveness of new approaches, techniques, systems and programs, employed to improve corrections, probation and parole.

Sec. 107. In addition to the other powers and duties specified in this Act, the Institute is authorized:

(1) to receive from any Federal department or agency such statistics, data, program reports, and other material as the Institute deems necessary to carry out its functions. Each such department or agency is authorized to cooperate with the Institute and shall, to the maximum extent practicable, consult with and furnish information to the Institute;

(2) to arrange with and reimburse the heads of Federal department and agencies for the use of personnel, facilities, or equipment of such departments and agencies;

(3) to confer with and avail itself of the assistance, services, records, and facilities of State and local departments or agencies, private organizations, or individuals;

(4) to enter into contracts with State and local departments and agencies, private organizations, or individuals for the performance of any of the duties of the Institute; and

(5) to procure the services of experts and consultants in accordance with section 3109 of title 5 of the United States Code, at rates of compensation not to exceed the daily equivalent of the rate authorized for level V by section 5316 of title 5 of the United States Code.

Sec. 108. The Institute shall, on or before the 31st day of December of each year, submit an annual report for the preceding fiscal year to the President and to the Congress. The report shall include an account of the Institute's operations, activities, financial condition, and accomplishments under this Act and may include such recommendations related to corrections, probation and parole as the Institute deems appropriate.

Sec. 109. (a) Each recipient of assistance under this Act shall keep such records as the Institute shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources; and such other records as will facilitate an effective audit.

(b) The Institute, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for purposes of audit and examinations to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this chapter.

(c) The provisions of this section shall apply to all recipients of assistance under this Act, whether by direct grant or contract from the Institute or by subgrant or subcontract from primary grantees or contractors of the Institute.

Sec. 110. Section 5316 of title 5 of the United States Code is amended by adding at the end thereof:

"(131) Director of the National Institute of Corrections."

Sec. 111. There are authorized to be appropriated out of the Treasury of the United States such sums as may be necessary to carry out the activities of the Institute. Such sums shall remain available for obligation until expended.

By Mr. WEICKER (for himself, Mr. HATHAWAY, Mr. HARTKE, and Mr. RIBICOFF):

S. 3343. A bill to designate a national network of essential rail lines; to require minimum standards of maintenance on rail lines; to provide Federal financial aid for rail rehabilitation; to establish rights of access by rail carriers to rail lines and facilities, and for other purposes. Referred to the Committee on Commerce.

INTERSTATE RAILROAD ACT OF 1974

Mr. WEICKER. Mr. President, I am today introducing, along with my distinguished colleagues, Messrs. HATHAWAY, HARTKE, and RIBICOFF, comprehensive legislation directing the rehabilitation of all mainline railroad tracks throughout the United States. Entitled the Interstate Railroad Act of 1974, this bill is a substantially improved version of similar legislation introduced by Senator HARTKE and myself in 1972.

Following my introductory remarks on the critical problem of deteriorating rail-track and roadbed, Senator HATHAWAY will discuss the important provisions of our legislative solution. Senator HARTKE, chairman of the Surface Transportation Subcommittee, will then examine the Federal commitment to a safe, efficient, viable national rail transportation system.

To begin with the problem, allow me to refer to Federal Railroad Administration data on train accidents. The latest year for which detailed train accident data is available, broken down by railroad company and by cause, is 1972. The following table compares for principal railroads the number of derailments on account of defects in, or improper maintenance of, track and roadbed for the years 1963 and 1972:

	1963	1972	1972 accidents per million locomotive miles
All U.S. railroads.....	691	2,477	3.2
Baltimore & Ohio.....	45	101	4.4
Boston & Maine.....	6	27	4.2
Chesapeake & Ohio.....	15	97	4.7
Delaware & Hudson.....	6	48	3.6
Erie-Lackawanna.....	9	42	2.6
Lehigh Valley.....	1	26	9.3
Central of New Jersey.....	5	27	10.0
Norfolk & Western.....	7	33	1.0

	1963	1972	1972 accidents per million locomotive miles
Penn Central (system).....	171	236	2.3
Reading.....	12	44	4.7
Illinois Central Gulf.....	15	87	3.0
Louisville & Nashville.....	23	186	6.9
Seaboard Coast Line.....	13	91	2.9
Southern (system).....	43	110	3.2
Santa Fe.....	17	47	.9
Chicago & North Western.....	36	221	9.5
Burlington Northern (system).....	33	131	2.0
Milwaukee Road.....	12	78	4.0
Rock Island Lines.....	10	280	14.4
Rio Grande.....	7	7	1.1
Kansas City Southern (system).....	7	40	12.5
Missouri-Kansas-Texas.....	52	64	14.2
Missouri Pacific (system).....	19	50	1.6
Frisco.....	12	43	2.9
Soo Line.....	1	33	4.2
Southern Pacific (system).....	30	42	.7
Union Pacific.....	5	15	4
Western Pacific.....	4	10	2.1

Preliminary reports from FRA indicate that during 1973 there were 9396 train accidents from all causes, a 25 percent jump from the 1972 total of 7532. Derailments alone increased about 30 percent. It is reasonable to assume that track-related derailments increased in at least the same proportion.

I should note here that FRA accident reporting system is based on accidents in which property damage exceeds \$750 each. Hence inflation alone causes some increase each year in the number of accidents which must be reported. Nevertheless, it is clear that the rate of increase since 1963 has considerably outstripped the pace of inflation, especially in 1973 and 1972.

One alarming indication of deteriorating track maintenance is the declining rate of rail and tie insertions. From 1959-1968, the number of crossties installed was only half of the normal requirements of a 35 year life cycle. In that same period, new rail was installed at about one-third the rate dictated by the accepted 60-year life cycle for rails. These deficiencies are recognized by the Department of Transportation, the Interstate Commerce Commission, and the railroads themselves.

The relatively good record of the Penn Central through 1972 is due almost entirely to reductions in allowable train speeds, which in some instances were quite drastic. While Mr. Moore and his associates are to be commended in dealing with the problem in the only way open to them, the national interest in modern and efficient rail transport will not be served by converting our railroads into railroads. Now it appears that Penn Central's string has about run out, even with speed reductions.

Despite almost 8,200 miles of track—almost half the system—operated under "slow orders", derailments from all causes during February 1974 were up by 137 percent over February 1973. Much of the increase resulted from bad track problems. Other railroads which have imposed significant speed reductions in recent years include the Rock Island, Illinois Central Gulf, Milwaukee Road, Boston and Maine, Soo Line, and Erie-Lackawanna.

A principal victim of deteriorating track and roadbed has been Amtrak pas-

senger service. Schedules of most Amtrak passenger trains are slower than in 1941 and 1953. Yet Amtrak ontime performance keeps getting worse:

	[In percent]		
	1971	1972	1973
All trains.....	75	75	60
Corridors.....	82	82	70
Long distance.....	56	53	30

By far the largest single cause of delay to Amtrak trains in 1973 was slow orders on account of track problems. Amtrak is presently engaged in litigation in an attempt to force Penn Central, Illinois Central Gulf, and Louisville & Nashville to fix up their track and improve ontime performance. In addition to slow schedules and undependable performance, bad track is giving Amtrak passengers on some routes an unacceptably rough ride.

Bad track has a detrimental effect on freight service as well as passenger service. The consequences of derailments in terms of property damage, loss and damage to freight, delay to shipments in the derailed train, and delay to shipments in other trains blocked by the derailment need no further elaboration. Even short of derailments, rough track causes an increase in freight damage claims and in equipment repair costs. Total payments for freight loss and damage from all causes have about doubled over the past 10 years.

It is sometimes argued that over-the-road speed for freight trains is unimportant because too much time is lost in yards, terminals, and so forth. The answer is that both areas are important and both should be improved. Slow over-the-road train operation leads to increased payments of overtime to train crews on top of the mileage rate. The recent revision of the hours of service law reducing permissible continuous time on duty to 12 hours provides additional incentive for expeditious over-the-road movement of freight trains. Over-the-road speed is of critical importance to "piggyback" and container traffic, which spends a far smaller proportion of total transit time in yards and terminals than does carload freight. If railroads are to retain and increase their volume of this business, they must offer a service which will match the door-to-door time of highway movement.

The importance of adequate track and roadbed maintenance for good freight service as well as good passenger service was stressed by the Department of Transportation in its report to the Congress on Amtrak in March 1973.

Railroad operational problems stemming from poor track maintenance are not confined to either passenger or to freight services. Almost a third of Amtrak's delays are attributable to "slow orders"—areas in which temporary speed restrictions have been placed due to track conditions. But inadequate track maintenance has an even greater impact on freight operations; slow speeds and delays cause increase costs due to poor utilization of crews and equipment. Quality of service is adversely affected. Freight is the railroad industry's primary source of revenue. To move it efficiently requires a well-maintained plant. Therefore, adequate track and roadbed maintenance is essential.

In November 1968, William H. Moore, then vice president of operations of the

Southern Railway System, told a group of railroad executives:

I say to you now, the American railroads must increase their spending on track maintenance.

This year, we (Southern) have already spent \$3 million more on M/W than was spent last year. The heavier cars and locomotives are demanding better track. The maintenance program we have used in the past—and it was a rather healthy one—would not do the job. In the final analysis this stepped-up program will cost no more than we have spent in the past. Savings generated through fewer derailments and less loss and damage will pick up the tab. We are already three-quarters of a million dollars better off in this respect this year than last year.

The sooner your managements decide to take this step the better off you will be. Trains will move faster, per diem on equipment will be less, derailments will diminish and, best of all, you will have more business to handle. I cannot think of a healthier situation.

Southern continues to follow Mr. Moore's prescription. The company's expenditures on maintenance of way in proportion to total expenses is among the highest in the industry. The results have been outstanding—both for freight shippers and Southern shareholders. Southern has about the lowest ratio of freight loss and damage expense of all U.S. railroads. At the same time, its profits are at record high levels, having increased each year since 1968.

Unfortunately, a number of other railroads apparently reject Southern's philosophy. In recent years, the Louisville and Nashville, the Illinois Central Gulf, the Burlington Northern, the Kansas City Southern, and the Chicago and North Western have not been adequately maintaining their track and roadbed, while at the same time they have paid out substantial amounts in dividends and for nontransportation investments. The inevitable consequences have been a decline in service quality and/or a soaring train accident rate. Of even greater concern is what will happen to their operations 2, 3, and 5 years from now when the remaining maintenance "fat" they are now living off of is completely used up. Sooner or later track and roadbed must be restored if a railroad is to continue to function, but the governing theory seems to be, "In the long run we'll all be dead." Now there are indications that even such affluent companies as the Chesapeake & Ohio and the Southern Pacific are deferring maintenance.

Of course some railroads have simply been unable to afford adequate track maintenance, the Penn Central and other bankrupts being the most obvious examples. Whatever the reasons, the crisis has been building for a long time and is truly national in scope. While scattered deferred maintenance began accumulating in some areas almost as soon as post World War II plant refurbishing was completed, the origins of the present situation date back to the recession of 1958. A 1971 study by the railroad industry's labor and management committee indicates that between 1958 and 1970, railroads replaced only 60 percent of the annual number of crossties that should have been replaced, and laid only

60 percent of the amount of new rail track that should have been installed. Beginning in 1958, there was a sharp drop in the ratio of maintenance of way spending to gross revenue, a situation that persisted through the relative railroad prosperity of the mid-1960's.

Estimates of the total dollar amount of deferred maintenance, and hence of the dollar needs for track and roadbed rehabilitation, are somewhat sketchy, but indications are that the national total is at least \$3 billion. The railroad industry estimated in 1971 that implementation of the original draft of track standards formulated under the Rail Safety Act would cost \$2.2 billion. The modified standards that were adopted were priced by the industry at \$1.6 billion. Last year Penn Central claimed that it had almost \$3 billion of deferred maintenance, including yards, terminals, and rolling stock. While the Department of Transportation thought the figure was closer to \$1.5 billion, that amount is a great plenty for just a single company. In its February 1974 report on the Northeast, the Department estimated that rehabilitation of substantially all track and roadbed in the Northeast would cost over \$3 billion.

In the absence of a Government guarantee, it is extremely difficult for any but the most profitable railroads to borrow money for fixed plant improvement because, unlike equipment borrowings, there is no readily marketable collateral which can be repossessed and sold to others. Property now owned by most railroads is mortgaged to the hilt. Moreover, new additions to fixed plant cannot be mortgaged to secure new borrowing because of "hereafter acquired" clauses in existing mortgages, which require such additions to be available as increased security for the benefit of present creditors.

Mr. HATHAWAY. Mr. President, my distinguished colleague from Connecticut (Mr. WEICKER) has graphically outlined the grave situation currently facing the American railroad system. The material he has presented on the incidence and effect of the decline of track and roadbed maintenance is dramatic evidence of the need for a strong national effort in this area. Three basic conclusions for the direction of public policy toward railroads are suggested by the available data:

First. The Federal Government should establish and enforce minimum standards of track and roadbed maintenance designed to allow fast and dependable passenger and freight service, as distinct from minimum requirements for safety. The regulations promulgated under the Rail Safety Act of 1970 do not achieve this objective, if for no other reason than railroads are free to reduce train speeds as low as they wish, thus reducing the level of maintenance required for reasons of safety.

Second. The Federal Government must provide financial assistance for rehabilitation of track and roadbed to those railroad companies which do not have either sufficient resources of their own and/or adequate access to credit.

Third. The Federal Government must encourage the concentration of through

rail traffic over a minimum number of selected routes maintained to high standards. The result would be improved overall service plus reduced maintenance costs on those lines restricted to local service.

It is with these points in mind that we have drafted the Interstate Railroad Act of 1974.

The bill calls first for designation of an Interstate Railroad System of selected main lines maintained to high standards. The final system would be formulated by a procedure involving public hearings before the Rail Services Planning Office of the Interstate Commerce Commission, somewhat analogous to the activity now underway under the Regional Rail Reorganization Act.

An important feature of this part of the bill requires all railroad companies to disclose information pertaining to the current state of maintenance of their track and roadbed in terms of speed restrictions, slow orders, etc.

All main track in the Interstate Railroad System would have to be maintained for smooth and dependable operation of freight trains at speeds up to 60 miles an hour. Past and present practices on well-managed, adequately financed railroads in all parts of the country indicate that there are definite operating and financial benefits from expeditious movements of freight trains—that is, at speeds of 50 miles an hour or over. Prior to the Penn Central merger, the New York Central allowed 60 miles an hour for freights on its important main lines. For many years 60 was standard top speed for fast freights on the Nickel Plate Road, now part of the Norfolk & Western. Southern Pacific, Cotton Belt, and Santa Fe are now running freights at 70. The Santa Fe is reported to be running its Super C at 80. The Union Pacific is planning its track maintenance to allow for 85-mile-an-hour freight operation. So it appears that maintenance of main lines for 60-mile-an-hour freight service is the appropriate minimum standard for high density main lines.

Current FRA safety regulations allow passenger trains to run 80 miles an hour on any track maintained for freight train operation at speeds of 41 to 60 miles an hour inclusive. If research and development progress results in locomotives with a "feather" touch on the track, passenger train speeds on such track might be increased to 90 or 100.

In formulating the track standards, the bill requires the Secretary of Transportation to be guided by "preferred or recommended practices from an engineering and economic standpoint as distinct from minimum requirements for safety." This language was used by the Federal Railroad Administration to describe a preliminary draft of track standards issued in June 1971 to be applicable under the Rail Safety Act. The safety standards adopted in October 1971 represent a significant modification of the June 1971 draft; they were characterized by the Federal Railroad Administrator as "minimum standards required for safe operation rather than recommended practice." Since the thrust of this legis-

lation is to promote modern and efficient rail service as distinct from minimum requirements for safety, I believe that the Secretary should be guided by the higher standards.

Adoption of the higher standards should have a beneficial effect on safe operation as well as quality operation. It seems that the best way to assure against derailments is to keep track as smooth as possible at all times. According to W. W. Hay, professor of railway civil engineering at the University of Illinois:

Track deterioration feeds on the dynamic effects of even slight irregularities. Therefore, the highest standards of surface, line, and gauge must be maintained.

In other words, while the high standards required by this bill may not of themselves be necessary for prevent derailments, adherence to them in the first instance is the most economic way of preventing the deterioration of track to the point that derailments become a likely possibility.

Lines other than those in the Interstate Railroad System would have to be maintained for the highest freight train speeds operated at any previous time, unless the Secretary found that lower speeds would not downgrade service to shippers. All rail lines would have to be in compliance with applicable standards within 3 years of enactment. Deferred maintenance would be prohibited.

The bill provides financial assistance for rehabilitation of rail lines in accordance with the required standards—\$1.5 billion over a 3-year period in Federal grants, and \$1 billion in loan guarantees. Grants would be available only to those railroads which could not repay a loan. Recipients of grants would have to spend at least as much of their own money on maintenance activities as they had been spending previously, and could not pay any dividends nor make nontransportation investments until the required rehabilitation work was completed and track was being kept up to standards. Recipients of guaranteed loans could not increase dividends or make nontransportation investments until the loan was repaid.

Mr. President, I am well aware that the financial assistance provisions of this legislation are quite substantial. But for at least 40 years, Government has turned its back on railroads while they have fallen into disrepair and decay. Now it is clear that we need railroads more than ever before, for both passenger and freight service. The bill for rehabilitation is long past due, and can no longer be evaded.

As I have already indicated, at least \$3 billion is needed to rehabilitate track and roadbed. Between \$650 million and \$1 billion will be available to the Consolidated Rail Corporation under the Regional Rail Reorganization Act, but much of that money will have to go for yards, terminals, and rolling stock. Accordingly, I believe that the \$2½ billion this bill authorizes is a reasonable estimate of what is needed in view of information presently available. When the bill is called for hearings, I am confident that

more precise data will be developed in this regard.

Senator HARTKE, the distinguished chairman of the Surface Transportation Subcommittee of the Committee on Commerce, shortly will discuss the justification for providing these funds to the railroad industry. I feel that such a step is not only justified, but is demanded by the past neglect and present state of our tracks and roadbeds. The bill we have introduced provides reasonable standards necessary for the creation of a first-class nationwide rail system and the funds necessary to assist in meeting those standards. Failure to respond in the present situation would be a betrayal of our responsibility to the railroads, the businesses which are dependent upon them and ultimately the American people.

Mr. HARTKE. Mr. President, I am pleased to cosponsor, along with my distinguished colleagues, the Interstate Railroad Act of 1974. Senator WEICKER has pointed out the tremendous need to improve roadbed and trackage. I believe that it is fair to say that the deterioration of roadbed and trackage is the single most important problem facing the rail industry in the United States today. The increasingly drastic need to do something about the condition of our rail right-of-ways has already reached a crisis in vast areas of the Nation; the recent passage of the Regional Rail Reorganization Act of 1973 will hopefully lead to the upgrading of essential trackage in the area that has been most severely affected by the lack of proper maintenance—the Midwest and Northeast. This legislation represents the next step, and will not only build on whatever has been accomplished in the 17-State region covered by the recently enacted Regional Rail Reorganization Act, but also will address the problem of lack of adequate maintenance in the rest of the United States.

Senator HATHAWAY has pointed out that the track standards that have been promulgated by the Federal Railroad Administration are really little more than speed limits, and that they have not led to either improved rights of way or improved safety. I also concur in Senator HATHAWAY's conclusion that the Federal Government must become more involved in the rehabilitation of roadbed and track. The drastic consequences of a rail shutdown in the Northeast and Midwest were repeatedly pointed out during consideration of the Regional Rail Reorganization Act, and it illustrates the tremendous importance to the entire Nation of having an adequate rail system. The inadequate service that is all too frequently rendered by the railroads today involves tremendous costs to society.

Shippers tend to use more expensive, less energy-efficient modes of transportation in order to get adequate service. Consumers pay for these inefficiencies in higher prices. The environment may suffer because of increased deterioration of ambient air standards. Shortages of energy sources, particularly refined petroleum products, are aggravated. More highways are needed. Increasing numbers of railroad employees are injured or even killed. In short, inadequate rail freight services has dramatic and

pervasive effects throughout society, and we cannot afford to allow what has already happened in the Midwest and Northeast to occur elsewhere.

As my distinguished colleagues have observed, the deterioration of roadbed and track not only affects freight service—it has a direct and immediate effect on passenger service as well. As chairman of the Surface Transportation Subcommittee, I have watched the ontime performance of Amtrak's intercity passenger trains go steadily downhill ever since 1970 when the Rail Passenger Service Act was passed. While many reasons have been alleged to account for this record of ever-worsening performance, without doubt one of the most important is the deteriorating state of our right-of-ways.

Senator HATHAWAY has already mentioned the size of the undertaking contemplated in this legislation. Most estimates of the expenditures needed to effect the rehabilitation and upgrading that would be required placed the cost at approximately \$3 billion. Some of these costs can be met through the Regional Rail Reorganization Act, and much of the rest will be accomplished through the use of loans guaranteed by the United States. Some direct Federal expenditures will be necessary, and there are adequate provisions in the legislation in order to safeguard the interests of the public. More importantly, the expenditure of public moneys for the improvement of rail transportation must be viewed in the context of public involvement in and support for other modes of transportation. Especially in light of the absolutely critical necessity of a healthy rail transportation system to the needs of the United States, the required expenditures to produce that needed system are relatively minimal.

The financial requirement needed to improve rail transportation are very modest compared to what has been and is continuing to be spent on other modes of transportation by all levels of Government. The following is taken from statistics developed by the Association of American Railroads, which I presume are reasonably accurate:

## STATISTICS

## 1921 THROUGH 1971

Highways: \$326 billion.  
Air Transport: \$25 billion.<sup>1</sup>  
Waterways: \$15 billion.<sup>2</sup>  
Railroads: \$200 million.  
Total, \$368 billion.

## 1971 ONLY

Highways: \$21 billion.  
Air Transport: \$2.3 billion.  
Waterways: \$920 million.  
Railroads: \$75 million.  
Total, \$25 billion.

For the Federal Government alone the figures are large enough:

## 1921 THROUGH 1971

Highways: \$72.4 billion.  
Air Transport: \$16.2 billion.  
Waterways: \$9.1 billion.

<sup>1</sup> Includes direct subsidy and airway control.  
<sup>2</sup> Excludes Merchant Marine, Coast Guard, and Intercoastal costs.

Railroads: \$65 billion.  
Total, \$98 billion.

## 1971 ONLY

Highways: \$5.5 billion.  
Air Transport: \$1.6 billion.<sup>1</sup>  
Waterways: \$440 million.<sup>2</sup>  
Railroads: \$65 million.  
Total, \$7.6 billion.

On March 5, 1974, the Secretary of Transportation presented to the House Appropriations Committee the following actual and projected figures for transportation funding by the Federal Government, which indicate no significant change in the present imbalance:

## OBLIGATIONS

[In millions of dollars]

	Fiscal year—		
	1973	1974	1975
Ground transportation:			
Highway improvement:			
interstate/rural/safety/			
other	4,107	3,820	3,925
Urban	508	800	875
Mass transit	989	986	1,351
Traffic and highway safety	156	160	220
Railroads	160	318	267
Subtotal, ground transportation	5,920	6,084	6,638
Water transportation:			
Coast Guard (maritime safety, environmental protection, and facilitation)	808	833	903
Ocean shipping	710	573	549
Waterway/harbor improvement (Corps of Engineers)	490	541	538
Other	4	6	6
Subtotal, water transportation	2,012	1,953	1,996
Air transportation:			
Airways and airports	1,681	1,990	2,120
Air carrier subsidies	66	67	66
Subtotal, air transportation	1,747	2,057	2,186
Total for all modes	9,679	10,094	10,820
Percentage proposed for rail	(1.7)	(3.1)	(2.4)

If the first \$500 million authorized by this bill is included in the projected total for fiscal year 1975, the railroad share of total transportation spending would rise from 2.4 to 6.7 percent—a modest share indeed in relation to the transportation job that modern railroads can do.

The fact that highway spending is covered in substantial part by user charges does not alter the force of these comparisons. User charges are not voluntary contributions by persons who want better highways; they are for the most part gasoline and other automotive excise taxes, the payment of which is a mandatory condition precedent to the operation of a motor vehicle. Thus the construction of highways is dependent upon the forcible collection of taxes by Federal and State Governments. Were it not for the exercise of Government tax powers, very few highways would be built.

Even if that portion of government transportation expenditures accounted for by user charges is completely disregarded, the amounts that have been and are continuing to be spent from general funds are enormous. Of the \$368 billion spent since 1921, at least \$100 billion came from general funds. Available figures indicate that in 1968, \$3

billion of the total \$17.8 billion spent on highways came from general funds. All of the waterway expenditures have come and will continue to come from general funds. While Congress has enacted an airport-airways user tax, it is estimated that for the period 1970-79 some \$3.2 billion will continue to be spent from general funds for these purposes.

As my colleagues are well aware, there has been an outpouring of protest throughout the Northeast and Midwest against the Department of Transportation's recommendations for discontinuance of rail lines in the territory covered by the act. The major economic problem of branch lines is that they have deteriorated so badly on account of deferred maintenance that the cost of rehabilitation relative to potential revenues is prohibitive for any private company. This legislation would provide funds for rehabilitation of many of these lines, thus enabling continuation of rail freight service that is vital to the future of smaller communities and rural areas.

An additional public benefit of a track and roadway rehabilitation program which should not be overlooked is the provision of employment opportunity for unskilled and semiskilled workers, the labor category in which unemployment has been the most acute for a number of years.

For all these reasons, it seems most appropriate that Government assistance be expended to rehabilitate the railroads. The Federal Government must now begin to right the imbalance in transportation which its past taxing and spending policies have helped to create.

In addition to financing for rehabilitation, the bill provides funds for emergency reconstruction following natural disasters, and for research and development on track and roadbed. The bill requires the Secretary of Transportation and the Army Engineers to make a 2-year study of the long-term capital needs of the interstate railroad system, including line relocation, signal systems, grade crossing elimination, and electrification.

Title IV of the bill is intended to encourage rationalization of the railroad plant by means of joint trackage and facility arrangements. Under present law, trackage rights arrangements can come about only as a result of voluntary agreement. Railroad corporations have been historically reluctant to enter into such arrangements on a voluntary basis for fear that a competitor might get slightly the better part of the bargain. The bill gives the ICC authority to break the impasse when one railroad wants to economize by use of tracks or facilities of another which is not agreeable thereto.

This part of the bill is consistent with the philosophy that railroads are in some respects equivalent to public highways. For over a century, this principle has been recognized by the Supreme Court of the United States:

That railroads, though constructed by private corporations and owned by them, are public highways has been the doctrine of nearly all the courts since such conveniences for passage and transportation have had any existence.

Whether the use of a railroad is a public or private one depends in no measure upon the question of who constructed it or who owns it. It has never been questioned as a matter of any importance that the road was built by the agency of a private corporation. No matter who is the agent, the function performed is that of the state. Though the ownership is private, the use is public. So turnpikes, bridges, ferries, and canals, although made by individuals under public grants, or by companies, are regarded as *publici juris*. The right to exact tolls or charge freights is granted for a service to the public. The owners may be private companies, but they are compellable to permit the public to use their works in the manner in which such works can be used. That all persons may not put their own cars upon the road, and use their own motive power, has no bearing upon the question whether the road is a public highway. It bears only upon the mode of use, of which the legislature is the exclusive judge." *Olcutt v. The Supervisors*, 83 U.S. 678 at 694, 695 (1872).

A railroad is a public highway, and none-the-less so because constructed and maintained through the agency of a corporation deriving its existence and powers from the State. Such a corporation was created for public purposes. It performs a function of the State. *Smyth v. Ames*, 169 U.S. 466 at 544 (1898).

To encourage maximum usage of this provision, the bill requires the ICC to take into consideration the extent to which railroads have availed themselves of it when passing on applications for freight rate increases and other financial relief.

The bill contains provisions for the protection of affected employees, both with regard to track and roadway rehabilitation work and with regard to trackage rights arrangements. Furthermore, the Secretary of Transportation is empowered to ascertain that the track standards are in fact complied with; and that rehabilitation work is done in an efficient and economic manner.

I am under no illusion that this bill is the total answer to the ailments affecting rail transportation. Other aspects, including freight car utilization, abandonments, and rate-making, are dealt with in bills in various stages of consideration by the Commerce Committee. However, in my opinion, none of the pending bills address the problem which the Interstate Railroad Act is aimed at—the deterioration and decay of track and roadbeds.

I look forward to the consideration of this legislation by the Senate Commerce Committee. There is no question regarding the need that the bill addresses itself to. Nor are any of its provisions set in concrete; as chairman of the Surface Transportation Subcommittee, I will be more than happy to entertain any comments or suggested changes in the bill which are designed to better effectuate the legislative intent.

Mr. President, I ask unanimous consent that the full text of the Interstate Railroad Act of 1974 be printed at the conclusion of my remarks along with a section-by-section analysis of the bill.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 3343

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Interstate Railroad Act of 1974".

#### TITLE I—FINDINGS, PURPOSES, AND DEFINITIONS

##### CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

SEC. 101. The Congress finds that modern, efficient rail service is essential to interstate commerce and to national defense; that the international energy crisis requires more intensive use of fuel-economic freight and passenger trains; that better utilization of existing rail rights-of-way is more compatible with the environment in terms of land use, air pollution, and noise levels, than is expansion of facilities for other modes of transportation; that many railroad tracks and roadbeds have greatly deteriorated in recent years; that such deterioration has resulted in inferior railroad transportation for both freight and passengers, together with a sharp increase in train derailments; that rehabilitation of such tracks and roadbeds will provide substantial public benefits through improved rail freight and passenger service; that the efficiency and quality of railroad service and the economic utilization of the railroad plant can be improved by freer access by rail carriers to portions of rail lines they do not own; and that to obtain modern and efficient rail service it is necessary to designate a national network of essential rail lines, to require minimum standards of maintenance for rail lines, to provide Federal financial aid for rehabilitation, maintenance and modernization of rail lines, and to establish rights of access by rail carriers to rail lines they do not own.

##### DEFINITIONS

SEC. 102. For the purposes of this Act the term—

- (1) "Commission" means the Interstate Commerce Commission;
- (2) "Office" means the Rail Services Planning Office of the Interstate Commerce Commission established by the Regional Rail Reorganization Act of 1973, P.L. 93-236;
- (3) "rail carrier" includes railroad companies; mail, express, or less-than-carload rail freight carriers; State, regional, or local transportation agencies; the National Railroad Passenger Corporation; and other private rail passenger carriers;
- (4) "rail line" includes main track or tracks; side tracks and yard tracks adjacent to such main tracks; the roadbed supporting such tracks; bridges, culverts, fills, tunnels, and other structures occupied by such tracks and roadbed; real estate occupied by such tracks and roadbed; and real estate adjacent to such tracks and roadbed needed for drainage of, maintenance of, access to and protection of such tracks and roadbed;
- (5) "railroad company" means a class I or class II railroad, including switching and terminal companies, as designated by the Interstate Commerce Commission and subject to part I of the Interstate Commerce Act;
- (6) "Secretary" means the Secretary of Transportation; and
- (7) "System" means the Interstate Railroad System established by this Act.

#### TITLE II—INTERSTATE RAILROAD SYSTEM

##### INVENTORY OF RAIL LINES

SEC. 201. (a) Within thirty days after the date of enactment of this Act, all rail carriers shall provide the Secretary and the Office with one copy each of the latest edition of all employees operating timetables, with related special instructions; all temporary and semipermanent "slow Orders" currently in effect; all other current restrictions

on train operation not included in the preceding items; and a verified statement indicating the highest speeds authorized at any time in the past on each given rail line for freight and passenger trains, including the dates between which such speeds were authorized.

(b) Additions, deletions, and changes in the information required to be provided by subsection (a) shall be promptly forwarded to the respective parties on a continuing basis.

#### INITIAL DESIGNATION OF SYSTEM

SEC. 202. (a) The Initial Interstate Railroad System shall consist of all rail lines operated by domestic railroad companies which as of the date of enactment of this Act are subject to traffic usage of at least twenty million gross ton-miles per year.

(b) Within thirty days after the date of enactment of this Act, the Secretary shall release a concise descriptive summary, together with a map, of all rail lines included within the initial System.

#### HEARINGS BY COMMISSION

SEC. 203. Commencing thirty days after release of the designation of the initial System, the Office shall hold public hearings both in the District of Columbia, and in other parts of the country. Notice of the dates, times, and places of such hearings shall be given in a manner as to assure a full and fair opportunity to be heard for consumers, shippers, industry, labor, and State and local governments.

#### RECOMMENDATIONS OF COMMISSION

SEC. 204. Within one hundred and twenty days after release of the designation of the initial System by the Secretary, the Office shall release and report to the Secretary its recommendations for additions and deletions thereto. In making its recommendations, the Office shall use the information developed during the hearings, and shall take into consideration the interests of persons, communities, States, and regions affected thereby; the existing pattern of service by rail carriers and alternative modes; present and future economic and population patterns; and the public interest in a balanced, integrated, competitive, and economical transportation system responsive to the needs of the users of such Systems. Such report shall include findings in support of each recommended addition to or deletion from the initial System.

#### FINAL DESIGNATION OF SYSTEM

SEC. 205. (a) Upon receiving the recommendations of the Office, the Secretary shall within thirty days, after giving all consideration to such recommendations, and with the cooperation and assistance of the Office, prepare, and transmit to the Congress the final Interstate Railroad System. The report of the Secretary shall include findings in support of each addition to or deletion from the initial System. To the extent consistent with the purposes of this Act, the Secretary shall not designate as part of the System rail lines which are parallel to, and duplicative of, other lines included in the System. The report shall identify all short-to-medium distance corridors in densely populated areas in which major upgrading of rail lines for passenger operations at speeds of one hundred and twenty miles an hour or over would return substantial public benefits in relation to the cost of such upgrading.

(b) The System as designated by the Secretary shall be deemed approved at the end of the first period of sixty calendar days of continuous session of Congress after transmittal unless, either the House of Representatives or the Senate passes a resolution during such period stating that it does not approve the System. If either body passes a resolution of disapproval, the Secretary with the cooperation and assistance

of the Office shall prepare and adopt a revised System. Each such revision shall be submitted to Congress for review pursuant to this subsection. For purposes of this subsection, continuity of Congress is broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day period. Upon becoming effective after review by the Congress, the System shall not be subject to review by any court.

#### MODIFICATION OF SYSTEM

SEC. 206. (a) At any time after the expiration of five years following the designation of the System under section 205 of this title, any party having an interest may request the Secretary to add or delete rail lines to or from such System. The Secretary shall make the addition or deletion if consistent with the public interest. Approval of a deletion shall not be considered by the Commission as evidence in an abandonment proceeding that service on the line deleted is no longer required by public convenience and necessity.

(b) Requests for deletions from the System on account of an agreement for joint use of rail lines, or an application for such joint use filed under section 301 of this Act, may be made at any time.

#### ACCESS TO INFORMATION

SEC. 207. All rail carriers shall provide such information as may be requested by the Secretary or by the Office in connection with the performance of their respective functions under this Act. The Secretary or the Office may obtain any such information by subpoena. In case of contumacy by, or a refusal to obey a subpoena served on, a rail carrier under this section, the district courts of the United States, upon application by the Attorney General upon request of the Secretary or the Office, shall have jurisdiction to issue an order requiring production of the information, and any failure to obey such order of the court may be punished by the court as a contempt thereof. Nothing in this section shall authorize the withholding by the Secretary, the Office, or any rail carrier of any information from the duly authorized committees of the Congress.

#### ADMINISTRATIVE EXPENSES

SEC. 208. There is hereby authorized to be appropriated, to remain available until expended for purposes of this Title—

- (a) For the Secretary, \$1,000,000, and  
(b) For the Office, \$1,000,000.

#### TITLE III—REHABILITATION, MAINTENANCE, AND MODERNIZATION OF RAIL LINES

##### MAINTENANCE STANDARDS

SEC. 301. (a) Within one hundred and twenty days after the date of enactment of this Act, the Secretary shall prescribe standards for maintenance of all rail lines. In formulating such standards, the Secretary shall be guided by preferred or recommended practices from an engineering and economic standpoint as distinct from minimum requirements for safety.

(b) Rail lines included within the System shall be maintained for smooth and dependable operation of freight trains at speeds up to sixty miles an hour. Upon application and for good cause shown, the Secretary may require a standard of maintenance on any given System rail line which will allow higher speeds.

(c) All other rail lines shall be maintained for smooth and dependable operation of freight trains at the highest speeds operated at any previous time on each given rail line. Upon application and proof that service to freight shippers will not be adversely affected, the Secretary may allow a standard of maintenance on any given non-System rail line

that is sufficient for lower speeds than were previously operated.

#### PERFORMANCE OF WORK

SEC. 302. (a) All rail lines shall be in compliance with standards prescribed in accordance with this title on or before the expiration of three years following the date of enactment of this Act.

(b) Within one hundred eighty days after the date of enactment of this Act, all owners and possessors of rail lines shall file with the Secretary a detailed schedule of proposed short term and long term maintenance activities to be performed on each rail line on a regular basis to assure that all rail lines are kept maintained in accordance with the applicable standards. If the Secretary does not believe that the proposed maintenance activities will be adequate, he may require an appropriate revision of the schedule. Deferral of any scheduled maintenance activity is hereby prohibited.

#### PROTECTION OF EMPLOYEES

SEC. 303. (a) No owner or possessor of rail lines shall contract out any project for rehabilitation or maintenance work required by this Act of a value of over \$450 per month in labor and materials which is normally performed by employees in any bargaining unit covered by a labor agreement between such owner or possessor and any labor organization.

(b) Owners and possessors of rail lines shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors and subcontractors in the performance of construction work financed with the assistance of funds received under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. No one shall enter into any construction contract or agreement without first obtaining adequate assurance that required labor standards will be maintained on the construction work. Health and safety standards promulgated by the Secretary of Labor pursuant to section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) shall be applicable to all construction work performed under such contracts or agreements, except any construction work performed by an employee of a railroad company. Wage rates provided for in collective bargaining agreements negotiated under and pursuant to the Railway Labor Act shall be considered as being in compliance with the Davis-Bacon Act.

#### REHABILITATION ASSISTANCE GRANTS

SEC. 304. (a) The Secretary is authorized, upon application of a railroad company which he finds—

(1) is unable to finance from its own resources the rehabilitation work required by this Act; and

(2) does not qualify for loan guarantees under section 305 of this title on account of an uncertain ability to repay a guaranteed loan,

to make rehabilitation assistance grants for the purpose of enabling such railroad company to comply with the provisions of this title, upon such terms and conditions as are just and reasonable and consistent with the public interest. Applications shall specify the estimated itemized cost of rehabilitation work to be performed with the proceeds of grants. Not more than ten per centum of the total grants made within any twelve-month period shall be made to any single railroad company, including controlled affiliates and subsidiaries.

(b) Upon receipt of an application for a rehabilitation assistance grant, the Secretary shall cause a notice of such application to be published in the Federal Register and shall invite and afford interested persons an

opportunity to submit comments on such application at a proceeding to commence within twenty-one days of the date of the publication of such application. General notice of such proceedings shall be published in the Federal Register. Such notices shall include—

(1) a statement of the time, place, and nature of the proceedings; and

(2) a description of the subjects and issues involved.

(c) No railroad company which receives a grant under this section shall pay any dividend on any class of stock or make any investments in nontransportation enterprises thereafter unless and until the Secretary certifies—

(1) that the work to be performed with the proceeds of such grant has been satisfactorily completed; and

(2) that the railroad company is in compliance with section 302(b) of this title regarding ongoing maintenance activities.

(d) A recipient of a grant shall be obligated to spend during each calendar year so long as the required rehabilitation work is not completed, at least as much of its own funds for rehabilitation and maintenance of rail lines as it spent during calendar year 1973. The required amounts for succeeding years shall be adjusted upward to reflect changes in the appropriate price and wage indices.

(e) The Secretary shall ascertain that recipients of such grants accomplish the required rehabilitation work in an economic and efficient manner.

(f) The Secretary shall not commit funds under this section beyond those available during the fiscal year in which the applications are made. During succeeding fiscal years the Secretary may consider additional applications in accordance with availability of funds.

(g) There is hereby authorized to be appropriated to the Secretary to remain available until expended for purposes of this section \$500,000,000 in each of the three fiscal years ending June 30, 1973, 1976, and 1977.

#### REHABILITATION ASSISTANCE LOAN GUARANTEES

SEC. 305. (a) The Secretary is authorized, after application from an owner or possessor of rail lines, to guarantee any lender against loss of principal and interest on securities, obligations, or loans (including refinancings thereof) issued to finance rehabilitation work required by this Act upon such terms and conditions as are just and reasonable and consistent with the public interest. Applications shall specify the estimated itemized cost of rehabilitation work to be performed with the proceeds of guaranteed loans. In passing upon applications, the Secretary shall consider the ability of the applicant to repay the loan and the relative ability of applicants to pay for the required rehabilitation work from their own resources or from non-guaranteed commercial loans.

(b) Upon receipt of an application for a loan guarantee, the Secretary shall cause a notice of such application to be published in the Federal Register and shall invite and afford interested persons an opportunity to submit comments on such application at a proceeding to commence within twenty-one days of the date of the publication of such application. General notice of such proceedings shall be published in the Federal Register. Such notice shall include—

(1) a statement of the time, place, and nature of the proceedings; and

(2) a description of the subjects and issues involved.

(c) (1) The rate of interest payable on any loan guaranteed by the Secretary under this section shall not exceed the per centum per annum rate on the unpaid principal of such loan determined by the Secretary to be reasonable upon consideration of the range of interest rates currently prevailing in the private market for similar loans.

(2) The maturity date of such loans, including all extensions and renewals thereof, shall not be more than twenty years from the date of issuance.

(3) The aggregate unpaid principal amount of such loans outstanding at any one time may not exceed \$1,000,000,000.

(4) The Secretary shall prescribe and collect a reasonable annual fee for guarantees made under this section.

(d) No railroad company which receives such a loan guarantee shall thereafter increase any dividend disbursement on any class of stock or make any investment in nontransportation enterprises unless and until the principal and interest of the loan is fully repaid.

(e) The Secretary shall ascertain that recipients of such loan guarantees accomplish the required rehabilitation work in an economic and efficient manner.

(f) All guarantees entered into by the Secretary under this section shall constitute general obligations of the United States of America backed by the full faith and credit of the Government of the United States of America. Any such guarantee shall not be terminated, canceled, or otherwise revoked; shall be conclusive evidence that such guarantee complies fully with the provisions of this Act and of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee; and shall be valid and incontestable in the hands of a holder of a guaranteed security, obligation, or loan, except for fraud or material misrepresentation on the part of such holder.

(g) There are authorized to be appropriated to the Secretary such amounts, to remain available until expended, as are necessary to discharge his obligations to honor loan guarantees made under this section.

(h) Upon default of any payment of principal or interest on any loan guaranteed by the Secretary under this section, the Secretary shall issue to the Secretary of the Treasury notes or other obligations in such forms and denomination, bearing such maturities and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Secretary from appropriations available under subsection (g) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations as acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

#### EMERGENCY RECONSTRUCTION GRANTS

SEC. 306. Any railroad company may apply to the Secretary for a grant to reconstruct railroad lines which have been damaged or destroyed by flood, washout, windstorm, earthquake, or other unforeseeable disaster outside the control of the applicant. Such assistance shall not be extended to applicants which are able to finance reconstruction with their own resources. There is hereby authorized to be appropriated to the Secretary such sums as are necessary to carry

out this section, not to exceed \$10,000,000 in any one fiscal year.

#### RESEARCH AND DEVELOPMENT

SEC. 307. The Secretary shall undertake a continuing program of research and development, including demonstration projects, into improving the stability, ride quality, longevity, and maintenance economics of railroad track and roadbed. There is hereby authorized to be appropriated to the Secretary for purposes of this section to remain available until expended \$10,000,000 in each of the three fiscal years ending June 30, 1975, 1976, and 1977.

#### LONG-TERM CAPITAL IMPROVEMENT NEEDS

SEC. 308. (a) Within two years after enactment of this Act, the Secretary and the Corps of Engineers, United States Army shall jointly undertake and carry out a study of the long-term capital needs for modernization of signal systems, line relocation, tunneling, highway grade crossing elimination, electrification, and other major upgrading of the Interstate Railroad System, including the high density corridors identified by the report required by section 205 of this Act. The study shall include recommendations for investment priorities among the various possible upgrading projects. The study shall evaluate the form and extent to which the Federal Government should assist with the financing of such upgrading.

(b) Upon completion of the study, the Secretary and the Corps of Engineers shall submit to the President and to the Congress, and shall release to the public, a full report thereon together with their recommendations for such legislative, administrative, and other actions as they deem appropriate for implementing the report.

(c) There is hereby authorized to be appropriated to the Secretary and to the Corps of Engineers for purposes of this section \$1,000,000 each.

#### TITLE IV—ACCESS TO RAIL LINES AND FACILITIES AUTHORITY TO ORDER ACCESS

SEC. 401. (a) Upon application of any rail carrier for the use of any rail line or other facility, the Commission shall by order, if it finds that such will not substantially impair the ability of the owner or possessor of such rail line or other facility to handle its own business, require such owner or possessor to permit the applicant to use such rail line or other facility upon such terms and conditions and for such compensation as is just and reasonable under the circumstances: *Provided*, That compensation for such use by passenger carriers shall not exceed the incremental expenses incurred by the owner or possessor as a result of such use.

(b) Applications by passenger carriers under this section shall be acted upon by the Commission within ninety days after such application is filed.

#### MODIFICATION OF EXISTING ARRANGEMENTS

SEC. 402. If under any arrangement for the use of a rail line or other facility which is in effect at the time of enactment of this Act, or which is entered into subsequently, a party desires modification in the terms or conditions, including compensation, such party may apply to the Commission for an order fixing revised terms or conditions as may be consistent with section 401.

#### PROTECTION OF EMPLOYEES

SEC. 403. (a) In connection with any transaction under this title for access to rail lines or other facilities, the rail carrier whose employees will be affected by such action shall be required to protect the interests of its respective employees. Such protective arrangements shall be those agreed to by the rail carrier and the representatives of its employees, or in the absence of such agreement, as the Commission may determine.

Such protective arrangements shall be included in any order which authorizes such transaction.

(b) The protective arrangements required by paragraph (a) shall protect individual employees from the date first affected against a worsening of their positions with respect to their employment and shall include, without being limited to, such provisions as may be necessary (A) to provide for notice and negotiation and execution of implementing agreements prior to the interests of employees being affected; *Provided, however,* That where such implementing agreement has not been executed within thirty days after the date on which the action became effective either party may submit for binding arbitration any unresolved questions in connection therewith, the arbitration decision to be rendered if possible within thirty days thereafter, but if such decision is for any reason delayed beyond said thirty days, the rights of the parties to such arbitration shall not be affected; (B) for the preservation of compensation (including subsequent wage increases), rights, privileges, and benefits (including fringe benefits such as pensions, hospitalization, vacations, and the like, under the same conditions and so long as such benefits continue to be accorded to other employees of the rail carrier in active service or on furlough as the case may be) to such employees under existing collective-bargaining agreements or otherwise; and (C) to provide for the arbitration of disputes arising out of the protective arrangements which cannot be settled by the parties. In such arbitrations the burden shall be upon the rail carrier to prove that the employee was not affected by the action taken. In no event shall said arrangements provide benefits less than those established pursuant to section 5(2)(f) of the Interstate Commerce Act.

#### EFFECT ON OTHER APPLICATIONS TO COMMISSION

Sec. 404. In passing upon any application by a rail carrier for increased freight rates, increased division of revenues, or other financial relief, the Commission shall consider and determine the extent to which such carrier has availed itself of the provisions of this title to effect economies and efficiencies in its operations. Upon granting such application in whole or in part, the Commission may condition such relief on the filing of an appropriate application under this title.

#### TITLE V—RECORDS, REPORTS, ADMINISTRATION, AND ENFORCEMENT BOOKS AND RECORDS

Sec. 501. All books, records, papers and documents of the Secretary relating to this Act, including material supplied to the Secretary in accordance with sections 201 and 207 of this Act, shall at all times be open to public inspection. Any person desiring to inspect such material shall reimburse the Secretary for the time of his employees required to assist with such inspection. Any person requesting reproduction of any material shall reimburse the Secretary for the cost of such reproduction.

#### QUARTERLY AND ANNUAL REPORTS

Sec. 502. (a) Within thirty days following the end of each quarter of the year, the Secretary shall submit to the Congress and release to the public a complete report of his activities and finances under this Act for the previous quarter. Such report shall include, but not be limited to, the amount and location of new and relay rail laid; ties installed or replaced; and miles of track surfaced. The report shall set forth the number, nature, and location of inspections of rail lines made by the Secretary's personnel, and the extent to which each and every rail line falls short of compliance with the standards promulgated under this Act.

(b) On or before October 31 of each year, the Secretary shall submit to the President and to the Congress, and release to the public, a comprehensive and detailed report of

his activities and accomplishments pursuant to this Act during the preceding fiscal year, including a balance sheet and statement of receipts and expenditures. The report shall include a projection of receipts and expenditures for the current fiscal year, and a proposed budget for the forthcoming fiscal year, which shall provide specific justification for each and every proposed expenditure.

#### ADVISORY COMMITTEE

Sec. 503. (a) The following organizations are requested to each appoint, within thirty days after the date of the enactment of this Act, a representative to form an advisory committee for the purpose of this section:

- (1) National Association of Regulatory Utility Commissioners;
- (2) National Governors Conference;
- (3) Association of American Railroads;
- (4) National Railroad Passenger Corporation;
- (5) Congress of Railway Unions;
- (6) Railway Labor Executives Association;
- (7) National Industrial Traffic League; and
- (8) National Association of Railroad Passengers.

(b) Such committee is requested to (1) monitor the activities of the Secretary pursuant to this Act, and (2) upon the expiration of one year after the date of enactment of this Act, and after each following year, submit to the Secretary and to the Congress and release to the public a report evaluating the effectiveness of this Act in achieving the objectives thereof declared by the Congress.

#### INSPECTION AND INVESTIGATION

Sec. 504. The Secretary is authorized to perform such acts, including, but not limited to, conducting investigations, holding hearings, making reports, prescribing recordkeeping and reporting requirements, promulgating rules and regulations, and delegating to any public bodies or qualified persons functions respecting examination, inspecting, and testing of railroad facilities as he deems necessary to carry out the provisions of this Act. Officers, employees, or agents of the Secretary are authorized to enter upon, inspect, and examine railroad facilities and pertinent books, papers, and records. Such officers, employees, and agents shall display proper credentials when requested.

#### RIGHT TO COURT ORDERS

Sec. 505. The United States district courts shall, at the request of the Secretary and upon petition by the Attorney General on behalf of the United States, have jurisdiction, subject to the provisions of rules 65 (a) and (b) of the Federal Rules of Civil Procedure, to enforce the provisions of this Act and the rules, regulations and standards of the Secretary issued thereunder, by the issuance of injunctions or restraining orders or by the granting of such other relief as may be appropriate.

#### PENALTIES

Sec. 506. (a) It shall be unlawful for any railroad company to disobey, disregard, or fail to adhere to the provisions of this Act or to any rule, regulation, standard, or condition prescribed by the Secretary under this Act.

(b) Any railroad company violating any rule, regulation, standard, or condition referred to in subsection (a) shall be assessed by the Secretary a civil penalty for violation thereof in such amount, not less than \$250 nor more than \$10,000, as he deems reasonable. Each day of such violation shall constitute a separate offense.

(c) Such civil penalty is to be recovered in a suit or suits to be brought by the Attorney General on behalf of the United States in the district court of the United States having jurisdiction in the locality where such violation occurred. Civil penalties may, however, be comprised by the Secretary for any amount, but in no event for an amount less

than the minimum provided in this section, prior to referral to the Attorney General. The amount of any such penalty when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged. All penalties collected under this Act shall be covered into the Treasury as miscellaneous receipts.

#### SUBPENAS IN COURT ACTIONS

Sec. 507. In any action brought under this Act, subpoenas for witnesses who are required to attend a United States district court may run into any other district.

#### OTHER RIGHTS AND LIABILITIES RESERVED

Sec. 508. Nothing contained in this Act shall be construed as depriving any person of any right of action which he may have otherwise than under this Act, or of relieving any person of any punishment, liability, or sanction which may be imposed otherwise than under this Act.

#### ADMINISTRATIVE EXPENSES

Sec. 509. There is hereby authorized to be appropriated to the Secretary such sums as are necessary for administration and enforcement of this Act, not to exceed \$10,000,000 in any one fiscal year. Wherever feasible, the Secretary shall make use of personnel and facilities employed under the Rail Safety Act of 1970 (45 U.S.C. 421 et seq.) in carrying out his responsibilities under this Act.

#### TITLE VI—MISCELLANEOUS PROVISIONS

##### ANTITRUST EXEMPTION

Sec. 601. Persons contracting for the joint use of railroad tracks and facilities shall be and hereby are relieved from all prohibitions of existing law, including the antitrust laws of the United States, with respect to such contracts, agreements, or leases insofar as may be necessary to enable them to enter into such contracts and to perform their obligations thereunder.

##### EVIDENCE IN DIVISIONS CONTOVERSIES

Sec. 602. For a period of five years following the date of enactment of this Act, evidence that the operating expenses of any rail carrier were reduced as a consequence of any direct or indirect assistance provided by this Act shall not be admissible as evidence before the Commission in any controversy involving the division of revenues.

##### SEPARABILITY

Sec. 603. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

##### AMENDMENT OF OTHER LAWS

Sec. 604. (a) Section 3(5) of the Interstate Commerce Act (49 U.S.C. 3(5)) is hereby repealed.

(b) Section 5(2)(a) of such Act is amended by striking out the semicolon and "or" at the end of clause (i) and inserting in lieu thereof a period and by striking out clause (ii).

#### SECTION-BY-SECTION ANALYSIS OF "INTERSTATE RAILROAD ACT OF 1974"

##### TITLE I—FINDINGS, PURPOSES, AND DEFINITIONS

Section 101. Congressional Findings and Declaration of Purpose—Sets forth the reasons why modern rail service is needed; the problems afflicting rail service on account of deteriorated track and roadbed; and declares that "to obtain modern and efficient rail service it is necessary to designate a national network of essential rail lines, to require minimum standards of maintenance for rail lines, to provide Federal financial aid for rehabilitation of rail lines, and to establish rights of access by rail carriers to rail lines they do not own."

Section 102. Definitions—Self-explanatory.

## TITLE II—INTERSTATE RAILROAD SYSTEM

Section 201. Inventory of Rail Lines—Requires railroads to supply basic information on signaling, speed limits, etc. on all rail lines to the Secretary of Transportation and the Interstate Commerce Commission.

Section 202. Initial Designation of System—Requires the Secretary of Transportation to provide a map of high-density rail lines throughout the United States, which lines are declared to be the "initial" Interstate Railroad System.

Section 203. Hearings by Commission—Requires the Rail Services Planning Office of the ICC to hold public hearings on the "initial" System.

Section 204. Recommendations of Commission—Calls on the RSPO to submit to the Secretary its recommendations for additions and deletions to and from the "initial" System.

Section 205. Final Designation of System—Calls on the Secretary to prepare and submit to the Congress a report setting forth the final Interstate Railroad System, which becomes effective in sixty days unless the Congress passes a resolution of disapproval, in which case the report must be revised and resubmitted.

Section 206. Modification of System—Allows for additions to and deletions from the System on or after five years after it is designated, with the exception of requests for deletions arising out of trackage rights arrangements, which may be made at any time.

Section 207. Access to Information—Empowers the Secretary and the ICC to obtain necessary information relating to their respective functions from railroad companies.

Section 208. Administrative Expenses—Authorizes \$1,000,000 each to the Secretary and to the ICC for expenses in connection with the process of designation of the System.

## TITLE III—REHABILITATION AND MAINTENANCE OF RAIL LINES

Section 301. Maintenance Standards—Requires the Secretary to set maintenance standards for rail lines in accordance with "preferred or recommended practices from an engineering and economic standpoint as distinct from minimum requirements for safety." Interstate System lines must be maintained for smooth and dependable 60 MPH freight operation; other lines for smooth and dependable freight operation at the highest speeds previously authorized.

Section 302. Performance of Work—Requires compliance with standards within three years of enactment; prohibits deferred maintenance.

Section 303. Protection of Employees—Limits "contracting out" of maintenance or rehabilitation work; applies Davis-Bacon Act to contracted work.

Section 304. Rehabilitation Assistance Grants—Provides Federal grants of \$500 million per year for three years for performance of required rehabilitation work by railroads which have insufficient resources of their own and are unable to repay a guaranteed loan. The payment of dividends and the making of non-transportation investments would be prohibited until the work was completed. Recipients of grants would be required to spend at least as much in successive years on maintenance from their own resources as they had spent during 1973.

Section 305. Rehabilitation Assistance Loan Guarantees—Authorizes \$1 billion in Federal loan guarantees for performance of required rehabilitation work. Recipients of loan guarantees could not increase dividends nor make non-transportation investments until the loans were repaid.

Section 306. Emergency Reconstruction Grants—Provides Federal grants of up to \$10 million a year for reconstruction of rail

lines destroyed by natural disasters such as floods.

Section 307. Research and Development—Provides \$10 million per year for three years to the Secretary for research and development on improved track and roadbed.

Section 308. Long Term Capital Improvement Needs—Calls on the Secretary and the Army Engineers to make a two year study of long term capital needs for modernization of signal systems, line relocation, tunneling, grade crossing elimination, and electrification; authorizes appropriation for this purpose of \$2 million.

## TITLE IV—ACCESS TO RAIL LINES AND FACILITIES

Section 401. Authority to Order Access—Empowers the ICC to order a railroad to allow another rail carrier to use its tracks and facilities upon payment of fair compensation, which in the case of passenger carriers shall not exceed incremental costs.

Section 402. Modification of existing Agreements—Allows parties to existing track and facility agreements to apply to ICC for a modification of the terms and conditions thereof.

Section 403. Protection of Employees—Provides severance pay and other benefits for employees who may be adversely affected by joint track and facility arrangements.

Section 404. Effect on Other Applications to Commission—Requires the ICC to consider the extent to which railroads have availed themselves of the potential economies of joint track and facility arrangements when they apply for higher freight rates, etc.

## TITLE V—BOOKS, RECORDS, ADMINISTRATION, AND ENFORCEMENT

Section 501. Books and Records—Requires that all records of the Secretary relating to this Act be open to public inspection.

Section 502. Quarterly and Annual Reports—Requires the Secretary to make comprehensive reports on his activities under the Act and on the maintenance activities and state of compliance of the railroads.

Section 503. Advisory Committee—Sets up an Advisory Committee to report to the Secretary and to the Congress on the effectiveness of the Act in achieving its objectives.

Section 504. Inspection and Investigation—Empowers the Secretary to inspect and investigate railroad facilities in furtherance of his duties under the Act.

Section 505. Right to Court Orders—Authorizes Federal courts to issue orders enforcing the provisions of the Act.

Section 506. Penalties—Provides civil penalties of up to \$10,000 a day against railroads violating the Act.

Section 507. Subpoenas in Court Actions—Allows subpoenas to run into any Federal court district.

Section 508. Other Rights and Liabilities Reserved—Preserves whatever legal relief is available under other Acts.

Section 509. Administrative Expenses—Authorizes \$10 million a year for the Secretary's expenses under the Act.

## TITLE VI—MISCELLANEOUS PROVISIONS

Section 601. Anti-Trust Exemption—Relieves parties to joint track and facility arrangements from the provisions of the anti-trust laws.

Section 602. Evidence in Divisions Controversies—Protects rail carriers who achieve economies by virtue of this Act from being adversely affected on that account in division of revenue controversies.

Section 603. Separability—Self-explanatory.

Section 604. Amendment of Other Laws—Eliminates provisions of the Interstate Commerce Act prohibiting voluntary track and facility joint use agreements, and giving the ICC power to order joint terminal arrangements on its own motion.

By Mr. KENNEDY:

S. 3344. A bill to authorize appropriations for activities of the National Science Foundation, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. KENNEDY. Mr. President, today I am introducing legislation authorizing appropriations for the National Science Foundation for fiscal 1975.

This authorization reflects the testimony heard by the Special Subcommittee on the National Science Foundation during hearings last week on the Foundation's proposed programs for the coming year. During those hearings, concern was expressed that, despite significant increases in the funding for energy research programs, insufficient funds were budgeted for other aspects of the Foundation's work. We also had the opportunity to examine the budget request submitted by the Foundation to the Office of Management and Budget, and to compare those figures with the authorization as sent to the Congress by the administration.

Based on the hearing record, I am today sending to the desk an authorization in the amount of \$850.3 million for the Foundation for fiscal 1975. The programs funded by the Foundation are an investment in discovery and innovation. They may lead us to new sources of energy, to advances which will create new industries and transform old ones, and to increased understanding of the principles which govern the physical, life, and social sciences—understanding which is essential if we are to enhance the quality of life.

It is the responsibility of the National Science Foundation to see that our scientists receive the financial support they need to carry forward promising research. As the only Federal agency with a direct mandate to strengthen science and education in science, it is called on to perform a critically important and unique function.

The funds authorized in the legislation I am sending to the desk today will insure that the Foundation is able to meet those responsibilities.

By Mr. TUNNEY:

S.J. Res. 205. Joint resolution authorizing the President to proclaim the last week of June each year as "National Autistic Children's Week." Referred to the Committee on the Judiciary.

## NATIONAL AUTISTIC CHILDREN'S WEEK

Mr. TUNNEY. Mr. President, last year, Congress successfully passed a bill declaring the last week of June of each year as "National Autistic Children's Week". I am introducing that resolution again today with the hope that this June, through the observance of National Autistic Children's Week, we can once more gain awareness and support.

As a result of National Autistic Children's Week last year, tremendous strides were made in increasing public awareness. Contributions for materials for publicity allowed the National Society for Autistic Children to distribute 30,000 posters and 8,000 canisters. Over 500 newspaper and magazine articles were