

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 865

Session of
1983

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KASUNIC, DALEY, MORRIS, ALDERETTE AND BOYES, APRIL 26, 1983

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, FEBRUARY 14, 1984

AN ACT

1 ~~Creating the Railroad Maintenance Authority; and providing for~~ <—
2 ~~its powers, duties and responsibilities.~~

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21 EMPOWERING THE DEPARTMENT OF TRANSPORTATION TO PRESERVE AND <—
22 IMPROVE RAIL FREIGHT SERVICE IN THE COMMONWEALTH BY MAKING
23 GRANTS, LOANS OR OTHER ASSISTANCE AVAILABLE TO QUALIFIED
24 APPLICANTS; AUTHORIZING A COMPREHENSIVE RAIL STUDY; MAKING AN
25 APPROPRIATION; AND MAKING REPEALS.

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14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 ~~Section 1. Short title.~~

<—

17 ~~This act shall be known and may be cited as the Railroad~~
18 ~~Maintenance Authority Act.~~

19 ~~Section 2. Legislative intent and findings.~~

20 ~~(a) Public policy. It is the public policy and~~
21 ~~responsibility of the Commonwealth to facilitate railroad~~
22 ~~transportation and commerce in this Commonwealth by exercising~~
23 ~~those powers of the Commonwealth necessary to qualify for rail~~
24 ~~services continuation subsidies under the Regional Rail~~
25 ~~Reorganization Act of 1973, (45 U.S.C. § 701 et seq.), as~~
26 ~~amended, and any rules or regulations promulgated under that~~
27 ~~act.~~

28 ~~(b) Finding and declaration. The General Assembly finds and~~
29 ~~declares that this responsibility of the Commonwealth cannot be~~
30 ~~effectively met without the establishment, funding,~~

1 ~~construction, reconstruction, acquisition, repair, replacement,~~
2 ~~operation and maintenance of railroads and railroad projects.~~

3 ~~Section 3.— Definitions.~~

4 ~~The following words and phrases when used in this act shall~~
5 ~~have the meanings given to them in this section unless the~~
6 ~~context clearly indicates otherwise:~~

7 ~~"Authority."— The Railroad Maintenance Authority created by~~
8 ~~this act.~~

9 ~~"Bond" or "railroad maintenance authority bond."— A revenue~~
10 ~~bond or rate issued by the Railroad Maintenance Authority to~~
11 ~~effectuate the intents and purposes of this act.~~

12 ~~"Income."— All money accruing to the authority from any~~
13 ~~source.~~

14 ~~"Owner."— All individuals, copartnerships, associations,~~
15 ~~corporations, companies, transportation companies, public~~
16 ~~service corporations, the United States or any agency or~~
17 ~~instrumentality thereof, common carriers by rail and railroad~~
18 ~~companies having any title or interest in any rail properties~~
19 ~~authorized to be acquired, leased or used by this act.~~

20 ~~"Person."— Individuals, corporations, partnerships or foreign~~
21 ~~and domestic associations, including railroads.~~

22 ~~"Rail properties."— Assets or rights owned, leased or~~
23 ~~otherwise controlled by a railroad or other person which are~~
24 ~~used, or useful, in rail transportation service: Provided, That~~
25 ~~rail properties does not include any properties owned, leased or~~
26 ~~otherwise controlled by a railroad not in reorganization, unless~~
27 ~~it consents to such properties' inclusion in the particular~~
28 ~~transaction.~~

29 ~~"Railroad."— A common carrier by railroad as defined in~~
30 ~~section 1(3) of Part I of the Interstate Commerce Act (49 U.S.C.~~

1 ~~1(3)).~~

2 ~~"Railroad project." The initiation, acquisition,~~
3 ~~construction, maintenance, repair, equipping or operation of~~
4 ~~rail properties or rail service, or the provisions of loans or~~
5 ~~grants to or with government agencies, or to persons for such~~
6 ~~purposes, by the authority.~~

7 ~~"Rail service." Freight and passenger service.~~

8 ~~Section 4. Railroad Maintenance Authority.~~

9 ~~(a) Authority created. The Railroad Maintenance Authority~~
10 ~~is hereby created. The authority is a governmental~~
11 ~~instrumentality of the Commonwealth and a body corporate. The~~
12 ~~exercise by the authority of the powers conferred by this act~~
13 ~~and the carrying out of its purposes and duties shall be deemed~~
14 ~~and held to be, and are hereby determined to be, essential~~
15 ~~governmental functions and for a public purpose.~~

16 ~~(b) Membership. The authority shall consist of nine~~
17 ~~members. The Governor shall appoint three members, the Speaker~~
18 ~~of the House shall appoint three members and the President pro~~
19 ~~tempore of the Senate shall appoint three members. Each member~~
20 ~~shall serve a term of four years except for initial appointments~~
21 ~~to the authority. Of the initial appointments, each appointing~~
22 ~~official shall make one appointment for a term ending June 30,~~
23 ~~1985, one appointment for a term ending June 30, 1986 and one~~
24 ~~appointment for a term ending June 30, 1987. A person appointed~~
25 ~~to fill a vacancy occurring prior to the expiration of the term~~
26 ~~for which his predecessor was appointed shall be appointed only~~
27 ~~for the remainder of the term. Each authority member shall serve~~
28 ~~until the appointment of his successor. Appointed authority~~
29 ~~members may be reappointed to serve additional terms. All~~
30 ~~members of the authority shall be citizens of the Commonwealth.~~

~~(c) Bond and removal from office. Each appointed member of the board, before entering upon his duties, shall give bond in the sum of \$25,000. The Governor may remove any authority member for cause.~~

~~(d) Officers and voting. Annually on the first business day of July the authority shall elect one of its appointed members as chairman and another as vice chairman, and shall appoint a secretary treasurer, who need not be a member of the authority. A member of the authority must be personally present at a meeting in order to vote during that meeting. Five members of the authority shall constitute a quorum and the affirmative vote of four members shall be necessary for any action taken by vote of the authority. No vacancy in the membership of the authority shall impair the rights of a quorum by such vote to exercise all the rights and perform all the duties of the authority. The person appointed as secretary treasurer, including an authority member if he is so appointed, shall give bond in the sum of \$50,000.~~

~~(e) Compensation. The Governor shall not receive any compensation for serving as an authority member. Each of the seven appointed members of the authority shall receive \$50 for each day or substantial part thereof actually spent in attending meetings of the board or in discharging or carrying out his duties and work as a member of the board. Each of the seven appointed members shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of his duties as a member of the authority. All compensation and expenses incurred shall be payable solely from funds of the authority or from funds appropriated for that purpose by statute and no liability or obligation shall be incurred by the~~

~~authority beyond the extent to which moneys are available from funds of the authority or from such appropriations.~~

~~(f) Executive director. There shall also be an executive director of the authority appointed by the authority.~~

~~Section 5. Authority may construct, maintain, etc. railroad maintenance projects.~~

~~To accomplish the public policies and purposes and to meet the responsibility of the Commonwealth as set forth in this act, the authority may carry out railroad projects or cause railroad projects to be carried out pursuant to a lease, sublease or agreement with any person or governmental agency, may make loans and grants to or with governmental agencies or to persons for railroad projects and may issue railroad authority bonds of the Commonwealth, payable solely from revenues, to pay the cost of such projects. A railroad project shall not be undertaken unless it has been determined by the authority to be consistent with any applicable comprehensive plan for railroad projects approved by the authority. Any resolution of the authority authorizing a railroad project shall include a finding by the authority that consistency determinations have been made.~~

~~Section 6. Powers, duties and responsibilities of authority generally.~~

~~(a) Specific powers. The Railroad Maintenance Authority is hereby granted, has and may exercise all powers necessary or appropriate to carry out and effectuate its corporate purpose. Specifically, the authority shall have the power and capacity to:~~

~~(1) Adopt, and from time to time, amend and repeal by laws necessary and proper for the regulation of its affairs and the conduct of its business and rules and regulations to~~

1 ~~implement and make effective its powers and duties.~~

2 ~~(2) Adopt an official seal.~~

3 ~~(3) Maintain a principal office and, if necessary,~~
4 ~~regional suboffices at locations properly designated or~~
5 ~~provided.~~

6 ~~(4) Sue and be sued in its own name and plead and be~~
7 ~~impleaded in its own name, and particularly to enforce~~
8 ~~obligations and covenants made under sections 10, 11 and 16.~~
9 ~~Any actions against the authority shall be brought in the~~
10 ~~Commonwealth Court.~~

11 ~~(5) Make loans and grants to governmental agencies and~~
12 ~~persons for carrying out railroad projects by any~~
13 ~~governmental agency or persons, and adopt rules and~~
14 ~~procedures for making such loans and grants.~~

15 ~~(6) Acquire, construct, reconstruct, enlarge, improve,~~
16 ~~furnish, equip, maintain, repair, operate, lease or rent to,~~
17 ~~or contract for operation by a governmental agency or person,~~
18 ~~railroad projects, and adopt rules and regulations for the~~
19 ~~use of such projects.~~

20 ~~(7) Make available the use or services of any railroad~~
21 ~~project to one or more persons, one or more governmental~~
22 ~~agencies, or any combination thereof.~~

23 ~~(8) Issue railroad maintenance authority bonds and notes~~
24 ~~and refunding bonds of the Commonwealth, payable solely from~~
25 ~~revenues as provided in section 10 unless the bonds are~~
26 ~~refunded by refunding bonds, for the purpose of paying any~~
27 ~~part of the cost of one or more railroad projects or parts~~
28 ~~thereof.~~

29 ~~(9) Acquire by gift or purchase, hold and dispose of~~
30 ~~real and personal property in the exercise of its powers and~~

1 ~~the performance of its duties as set forth in this act.~~

2 ~~(10) Acquire in the name of the Commonwealth, by~~
3 ~~purchase or otherwise, on the terms and in the manner as it~~
4 ~~deems proper, or by the exercise of the right of eminent~~
5 ~~domain, rail properties and appurtenant rights and interests~~
6 ~~necessary for carrying out railroad projects.~~

7 ~~(11) Make and enter into all contracts and agreements~~
8 ~~and execute all instruments necessary or incidental to the~~
9 ~~performance of its duties and the execution of its powers.~~
10 ~~When the cost under any potential contract or agreement,~~
11 ~~other than compensation for personal services, involves an~~
12 ~~expenditure of more than \$2,000, the authority shall make a~~
13 ~~written contract with the lowest responsible bidder after~~
14 ~~advertisement for competitive bid, which notice shall state~~
15 ~~the general character of the work and the general character~~
16 ~~of the materials to be furnished, the place where plans and~~
17 ~~specifications therefor may be examined and the time and~~
18 ~~place of receiving bids. The authority may make additional~~
19 ~~rules and regulations for bidding procedures. The authority~~
20 ~~may reject any and all bids. A bond with good and sufficient~~
21 ~~surety, approved by the authority, shall be required of all~~
22 ~~contractors in an amount equal to at least 50% of the~~
23 ~~contract price, conditioned upon the faithful performance of~~
24 ~~the contract. A contract or lease for the operation of a~~
25 ~~railroad project constructed and owned by the authority or an~~
26 ~~agreement for cooperation in the acquisition or construction~~
27 ~~of a railroad project pursuant to section 16 is not subject~~
28 ~~to bid requirements, and the authority may enter into such an~~
29 ~~agreement after negotiation and upon terms and conditions and~~
30 ~~for a period as the authority finds to be reasonable and~~

1 ~~proper under the circumstances and in the best interests of~~
2 ~~proper operation or of efficient acquisition or construction~~
3 ~~of such railroad project.~~

4 ~~(12) Appoint a director, employ managers,~~
5 ~~superintendents and other employees and retain or contract~~
6 ~~with consulting engineers, financial consultants,~~
7 ~~accountants, attorneys and other consultants and independent~~
8 ~~contractors as are necessary in its judgment to carry out the~~
9 ~~provisions of this act, and fix their compensation or fees.~~
10 ~~These expenses shall be payable from the proceeds of railroad~~
11 ~~maintenance authority revenue bonds or notes issued by the~~
12 ~~authority, from revenues and funds appropriated for such~~
13 ~~purpose by the legislature or from grants from the Federal~~
14 ~~Government which may be used for such purpose.~~

15 ~~(13) Receive and accept from any state or Federal~~
16 ~~agency, grants for or in aid of the construction of any~~
17 ~~railroad project or for research and development with respect~~
18 ~~to railroads, and receive and accept aid or contributions~~
19 ~~from any source of money, property, labor or other things of~~
20 ~~value, to be held, used and applied only for the purposes for~~
21 ~~which such grants and contributions are made.~~

22 ~~(14) Engage in research and development with respect to~~
23 ~~railroads.~~

24 ~~(15) Purchase fire and extended coverage and liability~~
25 ~~insurance for any railroad project and for the principal~~
26 ~~office and suboffices of the authority, insurance protecting~~
27 ~~the authority and its officers and employees against~~
28 ~~liability, if any, for damage to property or injury to or~~
29 ~~death of persons arising from its operations and be a member~~
30 ~~of, and to participate in, the State workmen's compensation~~

1 ~~program.~~

2 ~~(16) Charge, alter and collect rates, rentals and other~~
3 ~~charges for the use or services of any railroad project as~~
4 ~~provided in this act.~~

5 ~~(17) Do all acts necessary and proper to carry out the~~
6 ~~powers expressly granted to the authority in this act.~~

7 ~~(b) Additional powers. In addition, the authority shall~~
8 ~~have the power to:~~

9 ~~(1) Acquire rail properties both within and not within~~
10 ~~the jurisdiction of the Interstate Commerce Commission and~~
11 ~~rail properties within the purview of the Regional Rail~~
12 ~~Reorganization Act of 1973 (45 U.S.C. § 701 et seq.), any~~
13 ~~amendments to it and any other relevant Federal legislation~~
14 ~~and regulations.~~

15 ~~(2) Enter into agreements with owners of rail properties~~
16 ~~for the acquisition of rail properties or use or both of rail~~
17 ~~properties upon such terms, conditions, rates or rentals as~~
18 ~~can best effectuate the purposes of this act.~~

19 ~~(3) Acquire rail properties and other property of a~~
20 ~~railroad in concert with another state or states as is~~
21 ~~necessary to insure continued rail service in this~~
22 ~~Commonwealth.~~

23 ~~(4) Establish a Statewide plan for rail transportation~~
24 ~~and local rail services.~~

25 ~~(5) Administer and coordinate the Statewide plan.~~

26 ~~(6) Provide in the Statewide plan for the equitable~~
27 ~~distribution of Federal rail service continuation subsidies~~
28 ~~among State, local and regional transportation authorities.~~

29 ~~(7) Promote, supervise and support safe, adequate and~~
30 ~~efficient rail services.~~

~~(8) Employ sufficient trained and qualified personnel for these purposes.~~

~~(9) Maintain adequate programs of investigation, research, promotion and development in connection with such purposes and to provide for public participation therein.~~

~~(10) Provide satisfactory assurances on behalf of the Commonwealth that fiscal control and fund accounting procedures will be adopted by the Commonwealth necessary to assure proper disbursement of and accounting for Federal funds paid to the Commonwealth as rail service continuation subsidies.~~

~~(11) Comply with the regulations of the Secretary of Transportation of the United States Department of Transportation affecting Federal rail service continuation programs.~~

~~(12) Do all things otherwise necessary to maximize Federal assistance to the Commonwealth under Title IV of the Regional Rail Reorganization Act of 1973 (45 U.S.C. § 761 et seq.) and to qualify for rail service continuation subsidies pursuant to the Regional Rail Reorganization Act of 1973.~~

~~Section 7. Operations and purchases.~~

~~(a) Sale, transfer or lease. The authority may sell, transfer or lease all or any part of the rail properties and other property acquired under the provisions of this act to any responsible person, firm or corporation for continued operation of a railroad or other public purpose. The sale, transfer or lease shall be for a price and subject to any further terms and conditions which the authority feels are necessary and appropriate to effectuate the purposes of this act. If Interstate Commerce Commission approval is required for the~~

~~continued operation of a railroad or other public purpose, the sale, transfer or lease is subject to the approval being granted.~~

~~(b) Certification guarantees. After acquiring any railroad lines within this Commonwealth, the authority shall assist any responsible person, firm or corporation to secure any order or certificate required by the Interstate Commerce Commission for the performance of railroad service. The authority shall also give any assurances or guarantees which are necessary or desirable to carry out the purposes of this act.~~

~~(c) Title of ownership. The authority may take whatever steps are necessary in order to determine the absolute fee simple title ownership of all rail properties of any railroad within this Commonwealth. The determination may include the status of the rail properties with respect to easements, rights of way, leases, reversionary rights, fee simple title ownership and any and all related title matters. The authority may retain attorneys, experts or other assistants, and issue any contracts as are necessary to make the title determination.~~

~~(d) Right of first refusal. All rail properties within this Commonwealth offered for sale by any railway corporation after the date of enactment of this act shall be offered for sale to the Commonwealth in the first instance.~~

~~(e) Interstate cooperation. The authority may cooperate with other states and authorities in connection with the purchase of any rail properties within this Commonwealth. The authority may also acquire railroad rights in other states and rail properties lying in other states in order to carry out the intentions and purposes of this act. In carrying out the powers and duties conferred by this act, the authority may enter into~~

~~general contractual arrangements, including joint purchasing and leasing of rail properties with other states.~~

~~(f) Acquisition by county or municipalities. In weighing the varied interests of the residents of this Commonwealth, the authority shall give consideration to the individual interest of any county or municipality expressing a desire to acquire a portion, or all, of the abandoned real estate located within its jurisdiction. The authority may exercise its powers under this act to acquire the abandoned property for subsequent conveyance to the county or municipality.~~

~~(g) Availability of Federal funds. The authority may utilize Federal funds, grants, gifts or donations which are available and any sums that are appropriated in carrying out the purposes of this act. The authority may also apply for discretionary or other funds available under the provisions of the Regional Rail Reorganization Act of 1973 or other Federal programs.~~

~~(h) Loan availability. The authority may apply for an acquisition and modernization loan, or a guarantee of a loan, pursuant to section 403 of the Regional Rail Reorganization Act of 1973 or any other Federal programs, within the limit of funds appropriated for those purposes.~~

~~(i) Authority to purchase. The authority is authorized to purchase any railroad rolling stock, equipment and machinery necessary for the operation and maintenance of any rail properties purchased by it on behalf of the Commonwealth, with any funds made available for this purpose. The authority may also acquire and have available, a pool of equipment and machinery which may be utilized by the operators of the rail properties for the purpose of track maintenance and other~~

1 ~~related railroad activities, upon terms and conditions~~
2 ~~determined by the authority.~~

3 ~~(j) Power to contract for improvement and maintenance of~~
4 ~~properties. The authority may contract for the rebuilding or~~
5 ~~relocation of any rail properties acquired pursuant to this act,~~
6 ~~within the provisions of the Regional Rail Reorganization Act of~~
7 ~~1973 or any other applicable legislation. The authority may also~~
8 ~~spend any sums appropriated, as well as any other available~~
9 ~~funds, for the modernization, rebuilding and relocation of any~~
10 ~~rail properties owned by the Commonwealth or by a private~~
11 ~~carrier. The authority may do any maintenance on any rail~~
12 ~~properties owned by the Commonwealth as is necessary in the~~
13 ~~public interest.~~

14 ~~(k) Power to contract for improvement and maintenance of~~
15 ~~services. The authority may contract with any domestic or~~
16 ~~foreign person, firm, corporation, agency or government to~~
17 ~~provide, maintain or improve rail transportation service on the~~
18 ~~rail properties acquired by the Commonwealth under this act.~~

19 ~~(l) Power to transfer nonessential properties; hearing~~
20 ~~required. Whenever the authority determines that any rail~~
21 ~~properties acquired by the Commonwealth are no longer needed for~~
22 ~~railroad purposes, it may, with the permission of the Governor,~~
23 ~~permanently or temporarily transfer the rail properties to any~~
24 ~~other department, agency or political subdivision of the~~
25 ~~Commonwealth, which shall utilize the properties for a public~~
26 ~~purpose. Whenever more than one department, agency or political~~
27 ~~subdivision wishes to utilize the property, the authority shall~~
28 ~~resolve such a conflict and make a prompt determination of the~~
29 ~~reasonable and proper order of priority, taking into~~
30 ~~consideration any applicable Statewide plans, policies or~~

~~objectives. If no department, agency or political subdivision wants the properties, the authority may sell them, with the proceeds deposited to the special railroad fund established by this act. A public hearing is required prior to the transfer or sale of any rail properties by the authority.~~

~~Section 8. Railroad Maintenance Authority Fund.~~

~~There is hereby created in the State Treasury a Railroad Maintenance Authority Fund. The authority shall deposit proceeds derived from action taken pursuant to this act and shall be the authority to use moneys in the fund to effectuate the provisions and purposes of this act.~~

~~Section 9. Expenditure of funds for study and engineering of proposed projects.~~

~~The authority may expend, out of any funds available for the purpose, any moneys as are necessary for the study of any proposed railroad project and may use its engineering and other forces, including consulting engineers for the purpose of effecting such study. All expenses incurred by the study and engineering shall be paid from the funds established in section 8.~~

~~Section 10. Issuance of bonds and notes.~~

~~(a) Power to raise revenue by issuing bonds; debt limitation. The authority is hereby empowered to raise the cost of one or more railroad projects or parts thereof by the issuance from time to time of railroad maintenance revenue bonds and notes of the Commonwealth in such principal amount as the authority deems necessary, but the aggregate amount of all issues of bonds and notes outstanding at one time for all projects authorized hereunder shall not exceed that amount capable of being serviced by revenues received from such~~

1 ~~projects.~~

2 ~~(b) Powers to issue renewal notes and refunding bonds. The~~
3 ~~authority may, from time to time, issue renewal notes, issue~~
4 ~~bonds to pay the notes and whenever it deems refunding~~
5 ~~expedient, refund any bonds by the issuance of railroad~~
6 ~~maintenance revenue refunding bonds of the Commonwealth, whether~~
7 ~~the bonds to be refunded have or have not matured, and issue~~
8 ~~bonds partly to refund bonds then outstanding and partly for any~~
9 ~~other authorized purpose. The refunding bonds shall be sold and~~
10 ~~the proceeds applied to the purchase, redemption or payment of~~
11 ~~the bonds to be refunded. Except as may otherwise be expressly~~
12 ~~provided by the authority, every issue of its bonds or notes~~
13 ~~shall be obligations of the authority payable out of the~~
14 ~~revenues of the authority, which are pledged for such payment,~~
15 ~~without preference or priority of the first bonds issued,~~
16 ~~subject only to any agreements with the holders of particular~~
17 ~~bonds or notes pledging any particular revenues. Such pledge~~
18 ~~shall be valid and binding from the time the pledge is made and~~
19 ~~the revenue so pledged and thereafter received by the authority~~
20 ~~shall immediately be subject to the lien of such pledge without~~
21 ~~any physical delivery thereof or further act and the lien of any~~
22 ~~such pledge shall be valid and binding as against all parties~~
23 ~~having claims of any kind in tort, contract or otherwise against~~
24 ~~the authority irrespective of whether such parties have notice~~
25 ~~thereof.~~

26 ~~(c) Bonds and notes qualify as negotiable instruments. All~~
27 ~~such bonds and notes shall have and are hereby declared to have~~
28 ~~all the qualities of negotiable instruments.~~

29 ~~(d) Bond and note characteristics. The bonds and notes~~
30 ~~shall be authorized by resolution of the authority, shall bear~~

~~1 such date and shall mature at such time, in the case of any such
2 note or any renewals thereof not exceeding five years from the
3 date of issue of such original note, and in the case of any such
4 bond not exceeding 50 years from the date of issue, as such
5 resolution may provide. The bonds and notes shall bear interest
6 at such rate, be in such denominations, be in such form, either
7 coupon or registered, carry such registration privileges, be
8 payable in such medium of payment, at such place and be subject
9 to such terms of redemption as the authority may authorize. The
10 bonds and notes of the authority may be sold by the authority,
11 at public or private sale, at or not less than the price the
12 authority determines. The bonds and notes shall be executed by
13 the chairman and vice chairman of the authority, both of whom
14 may use facsimile signatures. The official seal of the authority
15 or a facsimile thereof shall be affixed thereto or printed
16 thereon and attested, manually or by facsimile signature, by the
17 secretary treasurer of the authority, and any coupons attached
18 thereto shall bear the signature or facsimile signature of the
19 chairman of the authority. In case any officer whose signature,
20 or a facsimile of whose signature, appears on any bonds, notes
21 or coupons ceases to be such officer before delivery of the
22 bonds or notes, such signature or facsimile is nevertheless
23 sufficient for all purposes the same as if he had remained in
24 office until such delivery and in case the seal of the authority
25 has been changed after a facsimile has been imprinted on such
26 bonds or notes, such facsimile seal will continue to be
27 sufficient for all purposes.~~

~~28 (c) Authorizing resolution may include provisions of
29 issue. Any resolution authorizing any bonds or notes or any
30 issue thereof may contain provisions, subject to agreements with~~

~~1 bondholders or noteholders as may then exist, which provisions
2 shall be a part of the contract with the holders thereof, as to
3 pledging all or any part of the revenues of the authority to
4 secure the payment of the bonds or notes or of any issue
5 thereof; the use and disposition of revenues of the authority; a
6 covenant to fix, alter and collect rates, rentals and other
7 charges so that pledged revenues will be sufficient to pay the
8 costs of operation, maintenance and repairs, pay principal of
9 and interest on bonds or notes secured by the pledge of such
10 revenues and provide such reserves as may be required by the
11 applicable resolution or trust agreement; the setting aside of
12 reserve funds, sinking funds or replacement and improvement
13 funds and the regulation and disposition thereof; the crediting
14 of the proceeds of the sale of bonds or notes to and among the
15 funds referred to or provided for in the resolution authorizing
16 the issuance of the bonds or notes; the use, lease, sale or
17 other disposition of any railroad project or any other assets of
18 the authority; limitations on the purpose to which the proceeds
19 of sale of bonds or notes may be applied and pledging such
20 proceeds to secure the payment of the bonds or notes or of any
21 issue thereof; notes issued in anticipation of the issuance of
22 bonds, the agreement of the authority to do all things necessary
23 for the authorization, issuance and sale of such bonds in such
24 amounts as may be necessary for the timely retirement of such
25 notes; limitations on the issuance of additional bonds or notes;
26 the terms upon which additional bonds or notes may be issued and
27 secured; the refunding of outstanding bonds or notes; the
28 procedure, if any, by which the terms of any contract with
29 bondholders or noteholders may be amended or abrogated, the
30 amount of bonds or notes the holders of which must consent~~

~~thereto and the manner in which such consent may be given;
limitations on the amount of moneys to be expended by the
authority for operating, administrative or other expenses of the
authority; securing any bonds or notes by a trust agreement; and
any other matters, of like or different character, which in any
way affect the security or protection of the bonds or notes.~~

~~(f) Limitation of personal liability for issue. Neither the
members of the authority nor any person executing the bonds or
notes shall be liable personally on the bonds or notes or be
subject to any personal liability or accountability by reason of
the issuance thereof.~~

~~Section 11. Trustee for bondholders.~~

~~(a) Power to enter trust agreement. In the discretion of
the authority, any railroad maintenance bonds or notes or
railroad maintenance refunding bonds issued by the authority
under this act may be secured by a trust agreement between the
authority and a corporate trustee, which trustee may be any
trust company or banking institution having the powers of a
trust company within or without this Commonwealth.~~

~~(b) Terms of trust agreement. Any trust agreement may
pledge or assign revenues of the authority to be received but
shall not convey or mortgage any railroad project in whole or in
part. Any trust agreement or resolution providing for the
issuance of bonds or notes may contain any provisions for
protecting and enforcing the rights and remedies of the
bondholders or noteholders which are reasonable and proper and
not in violation of law. This includes covenants setting forth
the duties of the authority in relation to the acquisition of
property, the construction, improvement, maintenance, repair,
operation and insurance of the railroad project in connection~~

1 ~~with which bonds or notes are authorized, the rentals or other~~
2 ~~charges to be imposed for the use or services of any railroad~~
3 ~~project and the custody, safeguarding and application of all~~
4 ~~moneys and provisions for the employment of consulting engineers~~
5 ~~in connection with the construction or operation of the railroad~~
6 ~~project. Any banking institution or trust company incorporated~~
7 ~~under the laws of the Commonwealth which may act as depository~~
8 ~~of the proceeds of bonds or notes or of revenues shall furnish~~
9 ~~such indemnifying bonds or pledge such securities as are~~
10 ~~required by the authority. Any such trust agreement may set~~
11 ~~forth the rights and remedies of the bondholders and noteholders~~
12 ~~and of the trustee and may restrict individual rights of action~~
13 ~~by bondholders and noteholders as customarily provided in trust~~
14 ~~agreements or trust indentures securing similar bonds. Such~~
15 ~~trust agreement may contain such other provisions as the~~
16 ~~authority deems reasonable and proper for the security of the~~
17 ~~bondholders or noteholders. All expenses incurred in carrying~~
18 ~~out the provisions of any trust agreement may be treated as a~~
19 ~~part of the cost of the operation of the railroad project. Any~~
20 ~~trust agreement or resolution authorizing the issuance of~~
21 ~~railroad maintenance revenue bonds may provide the method~~
22 ~~whereby the general administrative overhead expenses of the~~
23 ~~authority shall be allocated among the several projects acquired~~
24 ~~or constructed by it as a factor of the operating expenses of~~
25 ~~each such project.~~

26 ~~Section 12.—Legal remedies of bondholders and trustees.~~

27 ~~Any holder of railroad maintenance revenue bonds or of bond~~
28 ~~coupons issued under the authority of this act and the trustee~~
29 ~~under any trust agreement, except to the extent restricted by~~
30 ~~law or by agreement may, by civil action, mandamus or other~~

~~proceedings, protect and enforce any rights granted under the laws of the Commonwealth, under the terms of the trust agreement or under the resolution authorizing the issuance of the bonds, and may enforce and compel the performance of all duties required by this act, by the trust agreement or by the resolution, to be performed by the authority or of its officers, including the fixing, charging and collecting of sufficient rentals or other charges.~~

~~Section 13.— Obligations not debt of Commonwealth nor any political subdivision.~~

~~(a) General rule.— Railroad maintenance revenue bonds and notes and railroad maintenance revenue refunding bonds issued under authority of this act and any related coupons shall not constitute a debt or a pledge of the faith and credit or taxing power of the Commonwealth nor of any county, municipality or any other political subdivision of the Commonwealth, and the holders or owners of bonds, notes or coupons shall have no right to have taxes levied by the General Assembly or taxing authority of any county, municipality or any other political subdivision of the Commonwealth for the payment of the principal of the indebtedness or interest. The bonds and notes shall be payable solely from the revenues and funds pledged for their payment as authorized by this act, unless the notes are issued in anticipation of the issuance of bonds or the bonds are refunded by refunding bonds issued under authority of this act, which bonds or refunding bonds shall be payable solely from revenues and funds pledged for their payment as authorized by this act. All issued bonds and notes shall contain on their face a statement to the effect that neither the principal nor the interest of the bonds or notes are debts of the Commonwealth nor~~

~~any of its political subdivisions but are payable solely from authority revenues and funds pledged for their payment.~~

~~(b) Expenses. All expenses incurred in carrying out the provisions of this act shall be payable solely from funds provided under authority of this act. Such act does not authorize the authority to incur indebtedness or liability on behalf of or payable by the State or any county, municipality or political subdivision thereof.~~

~~Section 14. Use of funds by authority.~~

~~All moneys, properties and assets acquired by the authority, whether as proceeds from the sale of railroad maintenance revenue bonds or as revenues or otherwise, shall be held by it in trust for the purposes of carrying out its powers and duties, and shall be used and reused in accordance with the purposes and provisions of this act. Such moneys shall at no time be commingled with other public funds. Such moneys, except as otherwise provided in any resolution authorizing the issuance of railroad maintenance revenue bonds or in any trust agreement securing the same, or except when invested pursuant to section 13, shall be kept in appropriate depositories and secured as provided and required by law. The resolution authorizing issuance of bonds or the trust agreement securing the bonds shall provide that any officer, banking institution or trust company which receives bond revenues shall act as trustee of this money and shall hold and apply it for the purposes of this act, subject to conditions of the act, the resolution creating the issue and any trust agreement.~~

~~Section 15. Investment of funds by authority.~~

~~Authority funds in excess of current needs, except as otherwise provided in any resolution authorizing the issuance of~~

~~its railroad maintenance revenue bonds or in any trust agreement securing the same, may be invested by the authority. Income from all such investments of moneys in any fund shall be credited to such funds as the authority determines, subject to the provisions of any resolution or trust agreement. Investments may be sold whenever the authority determines.~~

~~Section 16. Rentals and other revenues from railroad projects; contracts and leases of authority; cooperation and bonds of other governmental agencies.~~

~~(a) Power to collect and use revenues from properties. The authority may charge, alter and collect rates, rentals or other charges for the use or services of any project, and contract in the manner provided by this section with one or more persons, one or more governmental agencies, or any combination thereof, desiring the use or services thereof, and fix the terms, conditions, rates, rentals or other charges for such use or services. Such rentals or other charges shall not be subject to supervision or regulation by any other authority, department, commission, board, bureau or agency of the Commonwealth, and such contract may provide for acquisition by such person or governmental agency of all or any part of such railroad project for such consideration payable over the period of the contract or otherwise as the authority in its sole discretion determines to be appropriate, but subject to the provisions of any resolution authorizing the issuance of railroad maintenance revenue bonds or notes or railroad maintenance revenue refunding bonds of the authority or any trust agreement securing the same.~~

~~(b) Lease to related agencies. Any governmental agency which has power to construct, operate and maintain railroad projects may enter into a contract or lease with the authority~~

~~whereby the use or services of any railroad project of the authority will be made available to the governmental agency which shall pay for the use or services, rentals or other charges as may be agreed to by the governmental agency and the authority.~~

~~(c) Cooperative efforts to acquire or construct projects. Any governmental agency or agencies or combination thereof may cooperate with the authority in the acquisition or construction of a railroad project and shall enter into such agreements with the authority as are necessary, with a view to effective cooperative action and safeguarding of the respective interests of the parties to the agreements, which shall provide for contributions by the parties in the proportion as may be agreed upon and such other terms as may be mutually satisfactory to the parties, including without limitation the authorization of the construction of the project by one of the parties acting as agent for all of the parties and the ownership and control of the project by the authority to the extent necessary or appropriate for purposes of the issuance of railroad maintenance revenue bonds by the authority. Any governmental agency may provide a contribution as is required under agreements by the appropriation of money or, if authorized by a favorable vote of the electors to issue bonds or notes or levy taxes or assessments and issue notes or bonds in anticipation of the collection of moneys, by issuing bonds or notes or by levying taxes or assessments and issuing bonds or notes in anticipation of the collection of moneys, and by payment of appropriated money or the proceeds of such bonds or notes to the authority pursuant to such agreements.~~

~~(d) Bonds of governmental agencies. Any governmental~~

1 ~~agency, pursuant to a favorable vote of the electors in an~~
2 ~~election held before or after the effective date of this act for~~
3 ~~the purpose of issuing bonds to provide funds to acquire,~~
4 ~~construct or equip, or provide real estate and interests in real~~
5 ~~estate for a railroad project, whether or not the governmental~~
6 ~~agency at the time of the election had the authority to pay the~~
7 ~~proceeds from the bonds or notes issued in anticipation of a~~
8 ~~favorable vote to the authority as provided in this section, may~~
9 ~~issue such bonds or notes in anticipation of the issuance and~~
10 ~~pay the proceeds, to the authority in accordance with an~~
11 ~~agreement between such governmental agency and the authority. To~~
12 ~~do so, the legislative authority of the governmental agency must~~
13 ~~find and determine that the railroad project to be acquired or~~
14 ~~constructed by the authority in cooperation with such~~
15 ~~governmental agency will serve the same public purpose and meet~~
16 ~~substantially the same public need as the facility otherwise~~
17 ~~proposed to be acquired or constructed by the governmental~~
18 ~~agency with the proceeds of such bonds or notes.~~

19 ~~Section 17. Maintenance, operation and repair of projects.~~

20 ~~(a) Maintenance of projects. Each railroad project, when~~
21 ~~constructed and placed in operation, shall be maintained and~~
22 ~~kept in good condition and repair by the authority or the~~
23 ~~authority shall cause the same to be maintained and kept in good~~
24 ~~condition and repair. Each project shall be operated by~~
25 ~~employees of the authority or employed under a contract or lease~~
26 ~~with a governmental agency or person. All public or private~~
27 ~~property damaged or destroyed in carrying out the provisions of~~
28 ~~this act and in the exercise of the powers granted hereunder~~
29 ~~with regard to any project shall be restored or repaired and~~
30 ~~placed in its original condition, as nearly as practicable, or~~

~~adequate compensation made therefor out of funds provided in
accordance with the provisions of this act.~~

~~(b) Annual report and audit. As soon as possible after the
close of each fiscal year, the authority shall make an annual
report of its activities for the preceding fiscal year to the
Governor and the General Assembly. Each report shall set forth a
complete operating and financial statement covering the
authority's operations during the preceding fiscal year. The
authority shall cause an audit of its books and accounts to be
made at least once each fiscal year by certified public
accountants and the cost thereof may be treated as a part of the
cost of construction or of operations of its projects.~~

~~Section 18. Authority bonds lawful investments.~~

~~All railroad maintenance revenue bonds issued under this act
shall be lawful investments for the Pennsylvania Securities
Commission and shall also be lawful investments for banking
institutions, societies for savings, building and loan
associations, savings and loan associations, deposit guarantee
associations, trust companies, insurance companies, including
domestic for life and domestic not for life insurance companies.~~

~~Section 19. Exemption from taxation.~~

~~The exercise of the powers granted to the authority by this
act will be in all respects for the benefit of the people of the
Commonwealth, for the improvement of their health, safety,
convenience, well being and for the enhancement of their
residential, agricultural, recreational, economic, commercial
and industrial opportunities and is a public purpose. As the
operation and maintenance of railroad projects will constitute
the performance of essential governmental functions, the
authority shall not be required to pay any taxes or assessments~~

~~upon any railroad project or upon any property acquired or used by the authority or upon the income therefrom. Bonds and notes and all interest and income thereon shall be exempt from all taxation by the Commonwealth, or any political subdivision, except inheritance taxes.~~

~~Section 20.— Acquisition of property by authority.~~

~~The authority may acquire by purchase, whenever it determines the purchase expedient, any land, property, rights, rights of way, franchises, easements and other interests in lands it deems necessary or convenient for the construction and operation of any railroad project upon terms and at prices it considers reasonable and can be agreed upon between the authority and the owner thereof, and take title thereto in the name of the Commonwealth. All governmental agencies, notwithstanding any contrary provision of law, may lease, lend, grant or convey to the authority, at its request, upon such terms as the proper authorities of such governmental agencies deem reasonable and fair and without the necessity for an advertisement, auction, order of court or other action or formality, other than the regular and formal action of the governmental agency concerned, any real property or interests therein, including improvements thereto or personal property which is necessary or convenient to the effectuation of the authorized purposes of the authority, including public roads and other real property or interests therein, including improvements thereto or personal property already devoted to public use.~~

~~Section 21.— Property of public utilities and common carriers.~~

~~(a) Authorization.— This section authorizes the authority to take or disturb property or facilities belonging to any public utility or to a common carrier, which property or facilities are~~

~~required for the property and convenient operation of such public utility or common carrier, if provision is made for the restoration, relocation or duplication of such property or facilities elsewhere at the sole cost of the authority.~~

~~(b) Reconstruction requirements. When the authority finds it necessary to change the location of any portion of any public road, State highway, railroad or public utility facility in connection with the construction of a railroad project, it shall cause the same to be reconstructed at such location as the unit or division of government having jurisdiction over such road, highway, railroad or public utility facility deems most favorable. Such construction shall be of substantially the same type and in as good condition as the original road, highway, railroad or public utility facility. The cost of such reconstruction, relocation or removal and any damage incurred in changing the location of any such road, highway, railroad or public utility facility shall be paid by the authority as a part of the cost of such railroad project.~~

~~(c) Requirements to vacate. When the authority finds it necessary that any public highway or portion thereof be vacated by reason of the acquisition or construction of a railroad project, the authority shall request the Secretary of Transportation, in writing, to vacate a highway or portion of it if the highway or portion to be vacated is part of the State road system, or, if the highway or portion of it to be vacated is under the jurisdiction of a county or a municipality, the authority shall request the governing body of such county or municipality to vacate that public road or portion. The authority shall pay to the Secretary of Transportation or to the county or municipality, as the case may be, as part of the cost~~

1 ~~of such railroad project, any amounts required to be deposited~~
2 ~~with any court in connection with proceedings for the~~
3 ~~determination of compensation and damages and all amounts of~~
4 ~~compensation and damages finally determined to be payable as a~~
5 ~~result of any vacation.~~

6 ~~(d) Rules and regulations of relocation. The authority may~~
7 ~~make reasonable rules and regulations for the installation,~~
8 ~~construction, maintenance, repair, renewal, relocation and~~
9 ~~removal of railroad or public utility facilities in, on, over or~~
10 ~~under any railroad project. Whenever the authority determines~~
11 ~~that it is necessary that any facilities installed or~~
12 ~~constructed, in, on, over or under property of the authority~~
13 ~~pursuant to these rules and regulations be relocated, the~~
14 ~~railroad or public utility owning or operating the facilities~~
15 ~~shall relocate or remove them in accordance with the order of~~
16 ~~the authority. The cost and expenses of relocation or removal~~
17 ~~including the cost of installing facilities in a new location,~~
18 ~~the cost of any lands or any rights or interests in lands and~~
19 ~~the cost of any other rights acquired to accomplish such~~
20 ~~relocation or removal, may be paid by the authority as a part of~~
21 ~~the cost of such railroad project. In case of any such~~
22 ~~relocation or removal of facilities, the railroad or public~~
23 ~~utility owning or operating them, and its successors or assigns,~~
24 ~~may maintain and operate such facilities, with the necessary~~
25 ~~appurtenances in the new location in, on, over or under the~~
26 ~~property of the authority for as long a period and upon the same~~
27 ~~terms as it had the right to maintain and operate such~~
28 ~~facilities in their former location.~~

29 ~~Section 22. Financial interest in contracts prohibited.~~

30 ~~No officer, member or employee of the authority shall be~~

1 ~~financially interested, directly or indirectly, in any contract~~
2 ~~of any person with the authority, or in the sale of any~~
3 ~~property, real or personal, to or from the authority. This~~
4 ~~section does not apply to contracts or purchases of property,~~
5 ~~real or personal, between the authority and any governmental~~
6 ~~agency. Any officer, member or employee of the authority has~~
7 ~~such financial interest in a contract or sale of property~~
8 ~~prohibited, shall be guilty of a misdemeanor of the third~~
9 ~~degree, and, upon conviction, shall be sentenced to pay a fine~~
10 ~~of not more than \$1,000, or imprisonment in the county jail for~~
11 ~~not more than one year, or both.~~

12 ~~Section 23. Meetings and records of authority to be kept~~
13 ~~public.~~

14 ~~All meetings of the authority shall be open to the public,~~
15 ~~and the records of the authority shall be open to public~~
16 ~~inspection at all reasonable times, except as otherwise provided~~
17 ~~in this section. All proposed regulations and actions and all~~
18 ~~final actions of the authority shall be published in the~~
19 ~~Pennsylvania Bulletin.~~

20 ~~Section 24. Liberal construction of act.~~

21 ~~The provisions of this act are hereby declared to be remedial~~
22 ~~and shall be liberally construed to effectuate its purposes and~~
23 ~~intent.~~

24 ~~Section 25. Effective date.~~

25 ~~This act shall take effect in 60 days.~~

26 SECTION 1. SHORT TITLE.

<—

27 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE RAIL FREIGHT
28 PRESERVATION AND IMPROVEMENT ACT.

29 SECTION 2. FINDINGS AND DECLARATION OF POLICY.

30 (A) FINDINGS.--IT IS HEREBY DETERMINED AND DECLARED AS A

1 MATTER OF LEGISLATIVE FINDING THAT:

2 (1) THE WELFARE AND VITALITY OF THE COMMONWEALTH, THE
3 SATISFACTORY MOVEMENT OF GOODS WITHIN THE COMMONWEALTH AND
4 THE ECONOMIC HEALTH OF COMMONWEALTH INDUSTRIES ARE BEING
5 JEOPARDIZED BY THE DETERIORATION OR INADEQUATE PROVISION OF
6 RAIL FREIGHT TRANSPORTATION SERVICES WITHIN THE COMMONWEALTH.

7 (2) THE NUMBER OF MILES OF RAIL TRACK WITHIN THE
8 COMMONWEALTH WHICH HAVE BEEN ABANDONED, PREPARED FOR
9 ABANDONMENT OR OVER WHICH SERVICE HAS BEEN TERMINATED, AS A
10 RESULT OF THE REORGANIZATION OF RAIL CARRIERS IN THE
11 NORTHEAST UNITED STATES, HAS DIRECTLY THREATENED THE
12 PROVISION OF RAIL FREIGHT TRANSPORTATION SERVICES UPON WHICH
13 THE WELFARE AND VITALITY OF THE COMMONWEALTH DEPENDS.

14 (3) STATE ASSISTANCE FOR THE PRESERVATION,
15 REHABILITATION AND IMPROVEMENT OF EFFICIENT AND COORDINATED
16 RAIL FREIGHT TRANSPORTATION SERVICES, SYSTEMS AND FACILITIES
17 IS ESSENTIAL TO THE SOLUTION OF THESE STATEWIDE PROBLEMS.

18 (4) THE IMMEDIACY OF THE RAIL FREIGHT TRANSPORTATION
19 PROBLEMS WITHIN THE COMMONWEALTH NECESSITATES THAT A
20 COMPREHENSIVE RAIL FREIGHT STUDY BE UNDERTAKEN OF THE
21 COMMONWEALTH'S TRANSPORTATION SERVICES, SYSTEMS AND
22 FACILITIES AND CONCERNING THEIR PRESERVATION AND IMPROVEMENT.

23 (B) POLICY DECLARATION.--THEREFORE, IT IS HEREBY DECLARED TO
24 BE THE POLICY OF THE COMMONWEALTH TO PROMOTE THE HEALTH, SAFETY,
25 CONVENIENCE AND WELFARE OF ITS INHABITANTS BY THE ESTABLISHMENT
26 OF A RAIL FREIGHT ADVISORY COMMITTEE AND BY PROVIDING, THROUGH
27 THE DEPARTMENT OF TRANSPORTATION, STATE FINANCIAL ASSISTANCE FOR
28 THE PRESERVATION AND IMPROVEMENT OF ESSENTIAL RAIL FREIGHT
29 TRANSPORTATION SERVICES, SYSTEMS AND FACILITIES; BY THE CONDUCT
30 OF A COMPREHENSIVE STUDY OF SUCH SERVICES, SYSTEMS AND

1 FACILITIES; AND THROUGH THE COORDINATION OF THE COMMONWEALTH'S
2 RAIL FREIGHT TRANSPORTATION ACTIVITIES WITH FEDERAL AND LOCAL
3 GOVERNMENTS, TRANSPORTATION ORGANIZATIONS, TRANSPORTATION
4 COMPANIES AND OTHER INTERESTED GROUPS.

5 SECTION 3. DEFINITIONS.

6 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
7 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
8 CONTEXT CLEARLY INDICATES OTHERWISE:

9 "ACCELERATED MAINTENANCE." THE REPLACING OF TIES AND OTHER
10 TRACK AND STRUCTURAL MATERIALS IN QUANTITIES AS TO BE SUFFICIENT
11 FUNCTIONALLY TO RESTORE A RAILROAD LINE TO THE LEVEL NECESSARY
12 FOR COMPLIANCE WITH FEDERAL RAILROAD ADMINISTRATION CLASS I
13 TRACK SAFETY STANDARDS FOR FIVE YEARS AFTER COMPLETION OF A
14 PROJECT.

15 "CAPITAL PROJECT." ACQUISITION OF PROPERTY FOR, EQUIPPING,
16 FURNISHING, CONSTRUCTING, RECONSTRUCTING, REHABILITATING OR
17 IMPROVING RAIL FREIGHT TRANSPORTATION SYSTEMS OR FACILITIES, BUT
18 SHALL NOT INCLUDE ACCELERATED MAINTENANCE.

19 "COMMITTEE." THE RAIL FREIGHT POLICY COMMITTEE CREATED BY
20 THIS ACT.

21 "DEPARTMENT." THE DEPARTMENT OF TRANSPORTATION.

22 "MUNICIPALITY." ANY COUNTY, CITY, BOROUGH, INCORPORATED
23 TOWN, TOWNSHIP OR HOME RULE MUNICIPALITY.

24 "RAIL FREIGHT TRANSPORTATION SERVICES, SYSTEMS AND
25 FACILITIES." TRANSPORTATION PROVIDED BY ANY AND ALL PERSONS OR
26 CORPORATIONS HOLDING OUT, OFFERING OR UNDERTAKING, DIRECTLY OR
27 INDIRECTLY, SERVICE FOR COMPENSATION TO THE PUBLIC FOR THE
28 TRANSPORTATION OF PROPERTY BY RAIL; SYSTEMS SHALL INCLUDE ANY
29 LINES, RAIL CORRIDORS OR PROPERTIES NECESSARY IN PROVIDING RAIL
30 FREIGHT TRANSPORTATION SERVICES, INCLUDING EASEMENTS OR OTHER

1 RIGHTS-OF-WAY; FACILITIES SHALL INCLUDE FREIGHT CARS,
2 LOCOMOTIVES, WIRES, POLES AND EQUIPMENT FOR ELECTRIFICATION OF
3 RAIL LINES, RAILS, TRACKS, ROADBEDS, ELEVATED STRUCTURES,
4 BUILDINGS, STATIONS, TERMINALS, LOADING DOCKS, SIDETRACKS,
5 SHELTERS, PARKING AREAS, TUNNELS OR SUCH SIMILAR ITEMS AS MAY BE
6 NECESSARY IN THE PROVISION OF RAIL FREIGHT TRANSPORTATION
7 SERVICES.

8 "RAILROAD COMPANY." ANY PERSON, FIRM OR CORPORATION
9 RENDERING COMMON CARRIER RAIL FREIGHT TRANSPORTATION SERVICE IN
10 THIS COMMONWEALTH, PURSUANT TO AUTHORIZATION FROM THE PUBLIC
11 UTILITY COMMISSION OR THE INTERSTATE COMMERCE COMMISSION, WHERE
12 SUCH AUTHORIZATION IS REQUIRED BY LAW.

13 "SECRETARY." THE SECRETARY OF TRANSPORTATION.

14 "STATE TRANSPORTATION COMMISSION." THE COMMISSION CREATED IN
15 SECTION 2011 OF THE ACT OF APRIL 9, 1929 (P.L.177, NO.175),
16 KNOWN AS THE ADMINISTRATIVE CODE OF 1929, OR ANY SUCCESSOR
17 ORGANIZATION.

18 "TRANSPORTATION ORGANIZATION." ANY MUNICIPAL AUTHORITY, MASS
19 TRANSPORTATION, PORT OR OTHER AUTHORITY, OR ANY COMBINATION OF
20 TWO OR MORE SUCH ENTITIES, NOW EXISTING OR HEREAFTER ORGANIZED
21 UNDER THE LAWS OF PENNSYLVANIA, OR PURSUANT TO AN INTERSTATE
22 COMPACT, EMPOWERED TO RENDER RAIL FREIGHT TRANSPORTATION SERVICE
23 OR ASSIST IN RENDERING RAIL FREIGHT TRANSPORTATION SERVICE IN
24 THE COMMONWEALTH OF PENNSYLVANIA, EVEN THOUGH IT MAY ALSO RENDER
25 RAIL FREIGHT TRANSPORTATION SERVICE IN ADJACENT STATES.

26 SECTION 4. RAIL FREIGHT POLICY COMMITTEE.

27 (A) CREATION.--THERE IS HEREBY CREATED A RAIL FREIGHT POLICY
28 COMMITTEE, WHICH SHALL CONSIST OF THIRTEEN MEMBERS. THE MEMBERS
29 SHALL BE THE SECRETARY OF TRANSPORTATION, EX OFFICIO, WHO SHALL
30 ACT AS CHAIRMAN, THE SECRETARY OF COMMERCE, EX OFFICIO, THE

1 SECRETARY OF COMMUNITY AFFAIRS, EX OFFICIO, THE CHAIRMAN OF THE
2 PUBLIC UTILITY COMMISSION, EX OFFICIO, THREE MEMBERS OF THE
3 HOUSE OF REPRESENTATIVES TO BE APPOINTED BY THE SPEAKER, TWO
4 SHALL BE MEMBERS OF THE MAJORITY PARTY, AND ONE SHALL BE A
5 MEMBER FROM THE MINORITY PARTY, THREE MEMBERS OF THE SENATE TO
6 BE APPOINTED BY THE PRESIDENT PRO TEMPORE, TWO SHALL BE MEMBERS
7 OF THE MAJORITY PARTY, AND ONE SHALL BE A MEMBER FROM THE
8 MINORITY PARTY, TWO REPRESENTATIVES OF RAILROAD COMPANIES, ONE
9 OF A CLASS I RAILROAD AND ONE OF A CLASS III RAILROAD, TO BE
10 APPOINTED BY THE GOVERNOR, WHO SHALL HAVE EXTENSIVE EXPERIENCE
11 AND KNOWLEDGE OF RAIL FREIGHT TRANSPORTATION ACTIVITIES
12 THROUGHOUT THE COMMONWEALTH, AND ONE REPRESENTATIVE OF A
13 RAILROAD SHIPPER, TO BE APPOINTED BY THE GOVERNOR, WHO SHALL
14 HAVE EXTENSIVE EXPERIENCE AND KNOWLEDGE OF RAIL FREIGHT
15 TRANSPORTATION ACTIVITIES THROUGHOUT THE COMMONWEALTH. EACH
16 MEMBER MAY DESIGNATE A REPRESENTATIVE TO SERVE IN HIS OR HER
17 STEAD. A MEMBER WHO DESIGNATES A REPRESENTATIVE SHALL NOTIFY THE
18 CHAIRMAN, IN WRITING, OF THE DESIGNATION.

19 (B) TERMS OF APPOINTEES.--THE TERM OF ALL MEMBERS OF THE
20 COMMITTEE APPOINTED BY THE GOVERNOR SHALL BE FOR THREE YEARS,
21 HOWEVER, THE INITIAL TERMS OF THESE MEMBERS SHALL BE AS FOLLOWS:

22 (1) ONE YEAR FOR THE REPRESENTATIVE OF A CLASS I
23 RAILROAD.

24 (2) TWO YEARS FOR THE REPRESENTATIVE OF A CLASS III
25 RAILROAD.

26 (3) THREE YEARS FOR THE REPRESENTATIVE OF A RAILROAD
27 SHIPPER.

28 ANY MEMBER OF THE COMMITTEE MAY BE REAPPOINTED FOR AN ADDITIONAL
29 TERM OR TERMS. ANY PERSON APPOINTED TO FILL A VACANCY SHALL
30 SERVE ONLY FOR THE UNEXPIRED TERM.

1 (C) MEETINGS AND EXPENSES.--THE COMMITTEE SHALL MEET AT
2 LEAST FOUR TIMES EVERY 12 MONTHS, BUT MAY HOLD SUCH ADDITIONAL
3 MEETINGS AS ARE CALLED BY THE CHAIRMAN OR BY PETITION OF AT
4 LEAST FOUR COMMITTEE MEMBERS. THE RAILROAD AND SHIPPER MEMBERS
5 OF THE COMMITTEE SHALL BE ALLOWED PER DIEM EXPENSES, TO BE SET
6 BY THE COMMITTEE, BUT NOT TO EXCEED \$75. THE DEPARTMENT SHALL
7 PROVIDE APPROPRIATE STAFF SUPPORT TO ENABLE THE COMMITTEE TO
8 PROPERLY CARRY OUT ITS FUNCTIONS.

9 (D) POWERS AND DUTIES.--THE POWER AND DUTY OF THE COMMITTEE
10 SHALL BE TO ADVISE AND COMMENT ON THE COMPREHENSIVE RAIL FREIGHT
11 STUDY, TO ADVISE AND COMMENT ON ALL PHASES OF THE RAIL FREIGHT
12 TRANSPORTATION PROGRAM ACTIVITIES BEING UNDERTAKEN OR
13 FINANCIALLY ASSISTED BY THE DEPARTMENT, AND TO PROPOSE METHODS,
14 STRATEGIES OR TECHNOLOGIES FOR IMPROVING RAIL FREIGHT
15 TRANSPORTATION SERVICES SYSTEMS OR FACILITIES WITHIN THE
16 COMMONWEALTH. THE COMMITTEE SHALL PERIODICALLY SUBMIT REPORTS OF
17 ITS DELIBERATIONS AND CONCLUSIONS TO THE GOVERNOR, MEMBERS OF
18 THE GENERAL ASSEMBLY AND THE STATE TRANSPORTATION COMMISSION.
19 THE COMMITTEE SHALL TERMINATE ITS EXISTENCE BY 1988.

20 SECTION 5. COMPREHENSIVE RAIL FREIGHT STUDY.

21 (A) INITIATION OF STUDY.--THE DEPARTMENT SHALL UNDERTAKE,
22 EITHER THROUGH ITS OWN STAFF OR THROUGH THE USE OF A CONSULTANT
23 OR CONSULTANTS, OR BOTH, A COMPREHENSIVE STUDY OF RAIL FREIGHT
24 TRANSPORTATION SERVICES, SYSTEMS AND FACILITIES WITHIN THE
25 COMMONWEALTH AND RECOMMENDATIONS FOR THEIR PRESERVATION AND
26 IMPROVEMENT TO INCLUDE AT LEAST THE FOLLOWING ELEMENTS:

27 (1) IDENTIFICATION OF THE RAIL NETWORK REQUIRED TO
28 SUPPORT PENNSYLVANIA'S INDUSTRIES.

29 (2) IDENTIFICATION OF STRATEGIES TO BE USED BY THE
30 COMMONWEALTH IN ASSISTING IN THE PRESERVATION OF ESSENTIAL

RAIL LINES:

(I) A REVIEW OF THE DEPARTMENT'S CRITERIA FOR
EVALUATING POTENTIAL PROJECTS, INCLUDING ALTERNATE
TRANSPORTATION COSTS, HAZARDOUS MATERIALS, ETC.; AND

(II) IDENTIFICATION OF TYPES OF ASSISTANCE WHICH
WOULD BE APPROPRIATE IN DIFFERENT PROBLEM SITUATIONS.

(3) IDENTIFICATION OF MAJOR HEAVY, HIGH AND WIDE FREIGHT
FLOWS AND DEFINE A BASE RAIL NETWORK CORRESPONDING TO THOSE
FLOWS; IDENTIFY WAYS IN WHICH THE DEPARTMENT COULD ACT TO
PRESERVE CLEARANCES ON HEAVY, HIGH AND WIDE ROUTES IN THE
EVENT OF TRACK ALTERATIONS OR REMOVAL.

(4) IDENTIFICATION OF COMMONWEALTH STRATEGIES IN THE
EVENT THE CONRAIL SYSTEM IS BROKEN UP OR IF CONRAIL IS SOLD
TO ANOTHER RAILROAD WHICH ONLY MAINTAINS MAIN LINE SERVICES.

(5) ANALYSIS OF DISPOSITION OF COMMONWEALTH OWNED BRANCH
LINES AS WELL AS REMAINING ROUTE MILES THAT HAVE NOT BEEN
ACTED UPON BY CONRAIL.

(6) IDENTIFICATION OF ALL OTHER MODES INVOLVED IN RAIL
FREIGHT MOVEMENTS AND ASSESS INTERMODAL NEEDS, INCLUDING
MOTOR FREIGHT TRANSFER FACILITIES, PORT ACCESS AND AIR
FREIGHT MOVEMENT.

(B) UTILIZATION OF STUDY.--THE DEPARTMENT SHALL CONSIDER THE
CONCLUSIONS OF THE COMPREHENSIVE RAIL FREIGHT STUDY IN THE
IMPLEMENTATION OF ITS PROGRAMS DESIGNED TO PRESERVE AND IMPROVE
THE RAIL FREIGHT TRANSPORTATION SERVICES, SYSTEMS AND FACILITIES
WITHIN THE COMMONWEALTH, INCLUDING THE DEVELOPMENT OF NEW
INITIATIVES, WHERE REQUIRED.

(C) APPROPRIATION.--THE SUM OF \$750,000, OR AS MUCH THEREOF
AS MAY BE NECESSARY, IS HEREBY APPROPRIATED TO THE DEPARTMENT
FOR THE EXCLUSIVE PURPOSE OF CARRYING OUT THE COMPREHENSIVE RAIL

1 FREIGHT STUDY, INCLUDING DEPARTMENT ADMINISTRATIVE EXPENSES.
2 UNEXPENDED FUNDS APPROPRIATED SHALL REMAIN AVAILABLE FOR
3 EXPENDITURE UNTIL NOVEMBER 30, 1988.

4 SECTION 6. PROGRAM AUTHORITY.

5 (A) AUTHORITY.--THE DEPARTMENT IS HEREBY AUTHORIZED, WITHIN
6 THE LIMITATION HEREIN PROVIDED TO:

7 (1) PROVIDE OPERATING SUBSIDY GRANTS TO RAILROAD
8 COMPANIES, TRANSPORTATION ORGANIZATIONS OR MUNICIPALITIES TO
9 DEFRAY, OR ASSIST IN DEFRAYING, THE NET DEFICIT INCURRED BY
10 SUCH ENTITIES IN PROVIDING ESSENTIAL RAIL FREIGHT
11 TRANSPORTATION SERVICES WITHIN THE COMMONWEALTH.

12 (2) PROVIDE GRANTS TO RAILROAD COMPANIES, TRANSPORTATION
13 ORGANIZATIONS OR MUNICIPALITIES TO DEFRAY, OR ASSIST IN
14 DEFRAYING, THE COST OF ACCELERATED MAINTENANCE PROJECTS
15 PERFORMED ON RAIL LINES WITHIN THE COMMONWEALTH.

16 (3) UNDERTAKE CAPITAL PROJECTS AND TO PROVIDE CAPITAL
17 PROJECT GRANTS TO RAILROAD COMPANIES, TRANSPORTATION
18 ORGANIZATIONS OR MUNICIPALITIES. THE DEPARTMENT SHALL NOT
19 OPERATE OR PROVIDE DIRECTLY RAIL FREIGHT TRANSPORTATION
20 SERVICES ON ITS OWN RAIL LINES OR ON LINES OWNED BY OTHERS,
21 NOR SHALL A CAPITAL PROJECT BE UNDERTAKEN IN ORDER TO ENABLE
22 THE DEPARTMENT TO PROVIDE DIRECTLY RAIL FREIGHT
23 TRANSPORTATION SERVICES.

24 (4) ACQUIRE BY PURCHASE, LEASE, EMINENT DOMAIN
25 PROCEEDINGS, GIFT OR OTHERWISE, ALL AND ANY PROPERTY, IN SUCH
26 ESTATE AS DETERMINED BY THE SECRETARY, FOR PROMOTING THE
27 PURPOSES OF THIS ACT, INCLUDING THE PROPERTY OF A PUBLIC
28 UTILITY. ALL MUNICIPALITIES AND CORPORATIONS ARE HEREBY
29 AUTHORIZED TO DONATE PROPERTY TO THE DEPARTMENT. EMINENT
30 DOMAIN PROCEEDINGS SHALL BE IN ACCORDANCE WITH THE ACT OF

1 JUNE 22, 1964 (SP.SESS., P.L.84, NO.6), KNOWN AS THE EMINENT
2 DOMAIN CODE, AND THE DEPARTMENT IS EMPOWERED TO JOIN WITH ANY
3 MUNICIPALITY OR TRANSPORTATION ORGANIZATION IN OBTAINING ANY
4 PROPERTY THROUGH THE EMINENT DOMAIN PROCEEDINGS.

5 (5) UNDERTAKE RESEARCH, STUDIES, ANALYSIS AND PLANNING,
6 TO MAKE GRANTS TO RAILROAD COMPANIES, TRANSPORTATION
7 ORGANIZATIONS AND MUNICIPALITIES FOR RESEARCH, STUDIES
8 ANALYSIS AND PLANNING, RELATING TO ANY PHASE OF RAIL FREIGHT
9 TRANSPORTATION SERVICES, SYSTEMS AND FACILITIES, INCLUDING
10 THE MANAGEMENT, OPERATION, CAPITAL REQUIREMENTS AND ECONOMIC
11 FEASIBILITY THEREOF, AND ANY PREPARATION OF ENGINEERING AND
12 ARCHITECTURAL SURVEYS, PLANS AND SPECIFICATIONS AND OTHER
13 SIMILAR ACTIVITIES PRELIMINARY TO AND IN PREPARATION FOR
14 CONSTRUCTION, ACQUISITION OR IMPROVED OPERATION OF RAIL
15 FREIGHT TRANSPORTATION SERVICES, SYSTEMS AND FACILITIES
16 WITHIN THE COMMONWEALTH.

17 (6) UNDERTAKE DEMONSTRATION PROJECTS AND TO MAKE GRANTS
18 TO RAILROAD COMPANIES, TRANSPORTATION ORGANIZATIONS AND
19 MUNICIPALITIES FOR DEMONSTRATION PROJECTS, INCLUDING THE
20 DEVELOPMENT, TESTING AND DEMONSTRATION OF NEW FACILITIES,
21 EQUIPMENT, TECHNIQUES AND METHODS OF PROVIDING RAIL FREIGHT
22 TRANSPORTATION SERVICES, SYSTEMS AND FACILITIES WITHIN THE
23 COMMONWEALTH.

24 (7) UNDERTAKE MARKETING ACTIVITIES AND TO MAKE GRANTS TO
25 RAILROAD COMPANIES, TRANSPORTATION ORGANIZATIONS AND
26 MUNICIPALITIES FOR MARKETING ACTIVITIES, DESIGNED TO FOSTER
27 THE FULLEST AND MOST EFFICIENT UTILIZATION OF RAIL FREIGHT
28 TRANSPORTATION SERVICES, SYSTEMS AND FACILITIES WITHIN THE
29 COMMONWEALTH. MARKETING ACTIVITIES MAY BE UNDERTAKEN BY
30 CONTRACT WITH THE DEPARTMENT OR BY SUBCONTRACT WITH A GRANTEE

1 OF THE DEPARTMENT, UPON APPROVAL OF THE SUBCONTRACT BY THE
2 SECRETARY.

3 (8) UNDERTAKE AUDITS OF ANY PROJECT BEING FINANCIALLY
4 ASSISTED BY THE DEPARTMENT. THE DEPARTMENT MAY HIRE OUTSIDE
5 AUDITORS TO PERFORM SUCH FUNCTIONS OR MAY DIRECT ITS GRANTEES
6 TO ENGAGE SUCH AUDITORS AND INCLUDE THE EXPENSE THEREOF AS AN
7 ELIGIBLE PROGRAM COST.

8 (B) GUIDELINES FOR GRANTS.--THE FOLLOWING SHALL GOVERN ALL
9 GRANTS MADE UNDER THE AUTHORITY OF SUBSECTION (A):

10 (1) A RESPONSIBLE LEVEL OF LOCAL FINANCIAL
11 PARTICIPATION, TO BE DETERMINED BY THE DEPARTMENT, SHALL BE
12 REQUIRED FOR EACH CATEGORY OF PROJECT AUTHORIZED BY THIS
13 SECTION.

14 (2) A GRANT SHALL BE MADE ONLY UPON APPLICATION FILED BY
15 A GRANTEE REVIEWED AND APPROVED BY THE DEPARTMENT. NO GRANT
16 SHALL EXCEED THE AMOUNT REQUESTED BY A GRANTEE. AN AMENDED
17 GRANT REQUEST NEED NOT BE FILED BY A GRANTEE WHERE A PROPOSED
18 CONTRACT AMENDMENT DOES NOT EXCEED THE AMOUNT PREVIOUSLY
19 REQUESTED.

20 (3) A GRANT MAY BE MADE WITH REFERENCE TO ANY
21 APPROPRIATE PROJECT REGARDLESS OF WHEN IT WAS FIRST COMMENCED
22 OR CONSIDERED AND REGARDLESS OF WHETHER THE COSTS WITH
23 RESPECT THERETO SHALL HAVE BEEN INCURRED PRIOR TO THE TIME
24 THE PROJECT IS UNDERTAKEN OR THE PROJECT GRANT IS APPLIED FOR
25 OR MADE. IN THE CASE OF A PROJECT INVOLVING ACCELERATED
26 MAINTENANCE OR REHABILITATION, GRANTS SHALL BE MADE BY THE
27 DEPARTMENT ONLY AFTER RECEIPT OF SATISFACTORY DOCUMENTATION
28 CONCERNING THE CONDITION OF THE RAIL FACILITIES INVOLVED
29 BEFORE AND AFTER THE ACCELERATED MAINTENANCE OR
30 REHABILITATION. WHERE THE DEPARTMENT CONTRACTS FOR A GRANT

1 BASED UPON ESTIMATED COSTS, PAYMENTS MAY BE MADE THEREUNDER
2 PRIOR TO THE TIME COSTS ARE ACTUALLY INCURRED, HOWEVER, THE
3 DEPARTMENT SHALL ADJUST THE PAYMENTS UNDER ANY AGREEMENT
4 BEFORE THE END OF THE FISCAL YEAR INVOLVED, BASED UPON THE
5 MOST RECENT AVAILABLE ACTUAL DATA.

6 (4) NO AGREEMENT SHALL IMPAIR, SUSPEND, CONTRACT,
7 ENLARGE OR EXTEND OR AFFECT IN ANY MANNER THE POWERS OF THE
8 PENNSYLVANIA PUBLIC UTILITY COMMISSION, THE INTERSTATE
9 COMMERCE COMMISSION OR ANY OTHER REGULATORY AGENCY HAVING
10 JURISDICTION OVER RAIL FREIGHT TRANSPORTATION SERVICES,
11 SYSTEMS AND FACILITIES.

12 (C) LOAN AUTHORITY.--THE DEPARTMENT IS HEREBY AUTHORIZED TO
13 MAKE LOANS OF FEDERAL FUNDS TO RAILROAD COMPANIES,
14 TRANSPORTATION ORGANIZATIONS OR MUNICIPALITIES, IN ACCORDANCE
15 WITH THE REQUIREMENTS OF ANY FEDERAL LAW ESTABLISHING A LOAN
16 PROGRAM, FOR THE REHABILITATION AND IMPROVEMENT OF RAIL FREIGHT
17 TRANSPORTATION SYSTEMS AND FACILITIES.

18 SECTION 7. CONTRACTS; PROCUREMENT AND SALE OF PROPERTY;
19 COMPETITION IN AWARD OF CONTRACTS.

20 (A) CONTRACTUAL AUTHORITY.--THE DEPARTMENT SHALL HAVE THE
21 POWER AND AUTHORITY TO ENTER INTO CONTRACTS AND TO MAKE JOINT
22 CONTRACTS OF PURCHASE WITH ANY RAILROAD COMPANY, TRANSPORTATION
23 ORGANIZATION OR MUNICIPALITY IN ANY MANNER COMPLYING WITH THE
24 LAW APPLICABLE TO THE ENTITY. THE DEPARTMENT SHALL HAVE POWER
25 AND AUTHORITY TO MAKE CONTRACTS FOR THE IMPROVEMENT OF ANY
26 RIGHTS-OF-WAY, ROADBEDS OR ROLLING STOCK, ELECTRIFICATION
27 SYSTEMS, OTHER TRANSPORTATION SYSTEMS, OR ANY PARTS THEREOF,
28 CONSTITUTING A PROJECT WITHOUT ADVERTISEMENT FOR COMPETITIVE
29 BIDS, WHERE SUCH WORK IS TO BE DONE AT COST BY THE PERSONNEL AND
30 WITH THE FACILITIES OF THE RAILROAD COMPANY, LOCAL

1 TRANSPORTATION ORGANIZATION OR MUNICIPALITY ON WHOSE SYSTEM THE
2 PROPERTY IS TO BE USED. ANY OTHER PROVISION OF LAW TO THE
3 CONTRARY NOTWITHSTANDING, THE DEPARTMENT MAY SELL UNDER A SYSTEM
4 OF PUBLIC COMPETITIVE BIDDING, TRANSFER, LEASE OR GRANT ANY
5 LICENSE TO, EASEMENT OVER OR ANY OTHER INTEREST IN ALL, OR ANY
6 PART OF, THE RAIL PROPERTIES AND OTHER PROPERTY ACQUIRED UNDER
7 THE PROVISIONS OF THIS OR ANY OTHER RAIL-RELATED ACT TO ANY
8 RESPONSIBLE PERSON, FIRM, CORPORATION, MUNICIPALITY OR
9 INSTRUMENTALITY THEREOF, MUNICIPAL AUTHORITY, TRANSPORTATION
10 AUTHORITY, THE FEDERAL GOVERNMENT OR ANY BRANCH OR AGENCY
11 THEREOF, FOR CONTINUED OPERATION OR OTHER USE COMPATIBLE WITH
12 THE OPERATION OF A RAILROAD OR ANY PUBLIC PURPOSE, WHEN APPROVAL
13 FOR THE CONTINUED OPERATION OR OTHER PUBLIC PURPOSE IS GRANTED
14 BY THE INTERSTATE COMMERCE COMMISSION OF THE UNITED STATES, WHEN
15 SUCH APPROVAL IS REQUIRED. IN THE EVENT THE DEPARTMENT
16 DETERMINES THAT THERE IS NO NEED FOR CONTINUED OPERATION OF A
17 RAILROAD ON ANY RAIL PROPERTIES OR OTHER PROPERTIES ACQUIRED
18 UNDER THE PROVISIONS OF THIS OR ANY OTHER RAIL-RELATED ACT, AND
19 THAT THE PROPERTIES ARE NOT NEEDED FOR ANY OTHER PUBLIC PURPOSE,
20 THE DEPARTMENT MAY SELL, UNDER A SYSTEM OF PUBLIC COMPETITIVE
21 BIDDING, TRANSFER, LEASE OR GRANT ANY LICENSE TO, EASEMENT OVER
22 OR ANY OTHER INTEREST IN ALL OR ANY PART OF THE PROPERTIES TO
23 ANY RESPONSIBLE PERSON, FIRM, CORPORATION, MUNICIPALITY OR
24 INSTRUMENTALITY THEREOF, MUNICIPAL AUTHORITY, TRANSPORTATION OR
25 TO THE FEDERAL GOVERNMENT OR ANY BRANCH OR AGENCY THEREOF FOR
26 ANY WORTHWHILE PURPOSE, AS DETERMINED BY THE DEPARTMENT. AT
27 LEAST 30 DAYS PRIOR TO THE SALE OF ANY PROPERTY AS AUTHORIZED BY
28 THIS SECTION, THE DEPARTMENT SHALL PROVIDE WRITTEN NOTICE
29 THEREOF TO THE CHAIRMEN OF THE TRANSPORTATION COMMITTEES OF THE
30 SENATE AND HOUSE OF REPRESENTATIVES.

1 (B) COMPETITIVE BIDS.--EXCEPT IN THE PURCHASE OF UNIQUE
2 ARTICLES, OR ARTICLES WHICH FOR ANY OTHER REASON CANNOT BE
3 OBTAINED IN THE OPEN MARKET, AND EXCEPT AS HEREIN SPECIFICALLY
4 PROVIDED, COMPETITIVE BIDS SHALL BE SECURED BEFORE ANY PURCHASE
5 OR SALE, BY CONTRACT, OR OTHERWISE, IS MADE OR BEFORE ANY
6 CONTRACT IS AWARDED FOR CONSTRUCTION, ALTERATIONS, SUPPLIES,
7 EQUIPMENT, REPAIRS OR MAINTENANCE OR FOR RENDERING ANY SERVICES
8 TO THE DEPARTMENT OTHER THAN PROFESSIONAL SERVICES; AND THE
9 PURCHASE SHALL BE MADE FROM OR THE CONTRACT SHALL BE AWARDED TO
10 THE LOWEST RESPONSIBLE BIDDER; OR A SALE TO THE HIGHEST
11 RESPONSIBLE BIDDER. NO PURCHASE OF ANY UNIQUE ARTICLE OR OTHER
12 ARTICLES WHICH CANNOT BE OBTAINED IN THE OPEN MARKET SHALL BE
13 MADE WITHOUT EXPRESS APPROVAL OF THE SECRETARY WHERE THE AMOUNT
14 INVOLVED IS IN EXCESS OF \$5,000.

15 (C) ADVERTISEMENT.--EXCEPT AS HEREIN SPECIFICALLY PROVIDED
16 OTHERWISE, ALL PURCHASES AND SALES IN EXCESS OF \$5,000 SHALL BE
17 AWARDED AFTER ADVERTISING IN A NEWSPAPER OF GENERAL CIRCULATION
18 IN THE AREA WHERE THE PROPERTY IS TO BE USED NOT LESS THAN TWO
19 WEEKS PRIOR TO THE BID OPENING. BIDS SHALL BE PUBLICLY OPENED
20 AND READ ALOUD AT A DATE, TIME AND PLACE DESIGNATED IN THE
21 INVITATION TO BID. IN ALL CASES OF PURCHASES OR SALES IN EXCESS
22 OF \$5,000 AUTHORIZED HEREUNDER TO BE MADE WITHOUT COMPETITIVE
23 BIDDING EXCEPT PURCHASES FROM OR SALES TO A TRANSPORTATION
24 ORGANIZATION OR CONTRACTS WITH A TRANSPORTATION COMPANY UNDER
25 SUBSECTION (A), INVITATIONS TO BID SHALL BE SENT NOT LESS THAN
26 ONE WEEK PRIOR TO THE BID OPENING TO AT LEAST THREE POTENTIAL
27 BIDDERS WHO ARE QUALIFIED TECHNICALLY AND FINANCIALLY TO SUBMIT
28 BIDS, OR IN LIEU THEREOF A MEMORANDUM SHALL BE KEPT ON FILE
29 SHOWING THAT LESS THAN THREE POTENTIAL BIDDERS SO QUALIFIED
30 EXIST IN THE MARKET AREA WITHIN WHICH IT IS PRACTICABLE TO

1 OBTAIN BIDS.

2 (D) NEGOTIATION OF CERTAIN CONTRACTS.--PURCHASES OR SALES
3 UNDER \$5,000 MAY BE NEGOTIATED WITH OR WITHOUT COMPETITIVE
4 BIDDING UNDER SOUND PROCUREMENT PROCEDURES AS PROMULGATED AND
5 ESTABLISHED BY THE SECRETARY.

6 (E) WAIVER OF COMPETITIVE BID REQUIREMENT.--COMPETITIVE
7 BIDDING REQUIREMENTS MAY BE WAIVED IF IT IS DETERMINED IN SUCH
8 MANNER AS THE SECRETARY MAY, BY REGULATION, PROVIDE THAT AN
9 EMERGENCY DIRECTLY AND IMMEDIATELY AFFECTING CUSTOMER SERVICE,
10 PUBLIC HEALTH, SAFETY OR WELFARE REQUIRES IMMEDIATE DELIVERY OF
11 SUPPLIES, MATERIALS, OR EQUIPMENT. A RECORD OF CIRCUMSTANCES
12 EXPLAINING THE EMERGENCY SHALL BE SUBMITTED TO THE SECRETARY AND
13 KEPT ON FILE.

14 (F) DEPARTMENTAL PROPERTY.--CONTRACTS FOR THE SALE OR LEASE
15 OF PROPERTY OWNED BY THE DEPARTMENT SHALL BE AWARDED AFTER
16 COMPETITIVE BIDDING AS SHOWN IN SUBSECTION (C), EXCEPT WHERE A
17 CONTRACT IS ENTERED INTO WITH ANY MUNICIPALITY OR AGENCY OR
18 INSTRUMENTALITY OF THE COMMONWEALTH, TRANSPORTATION
19 ORGANIZATION, RAILROAD COMPANY OR FEDERAL AGENCY.

20 (G) RESTRICTION.--REQUIREMENTS SHALL NOT BE SPLIT INTO PARTS
21 FOR THE PURPOSE OF AVOIDING THE PROVISIONS OF THIS SECTION.

22 (H) REJECTION OF BIDS.--THE DEPARTMENT SHALL HAVE THE RIGHT
23 TO REJECT ANY OR ALL BIDS OR PARTS OF ANY OR ALL BIDS, WHENEVER,
24 IN THE OPINION OF THE SECRETARY, SUCH REJECTION IS NECESSARY FOR
25 THE PROTECTION OF THE INTEREST OF THE COMMONWEALTH. IN EVERY
26 CASE, A RECORD SHALL BE MADE, SETTING FORTH THE REASON FOR THE
27 REJECTION WHICH RECORD SHALL THEREAFTER BE KEPT ON FILE.

28 (I) RULES AND REGULATIONS.--THE SECRETARY SHALL ADOPT RULES
29 AND REGULATIONS TO EFFECTUATE THE PROVISIONS OF THIS SECTION.

30 (J) ASSIGNMENTS.--THE SECRETARY SHALL HAVE THE POWER TO

1 ACCEPT THE ASSIGNMENT FROM ANY RAILROAD COMPANY, TRANSPORTATION
2 ORGANIZATION OR MUNICIPALITY OF ALL OR ANY INTEREST IN ANY
3 LAWFULLY MADE CONTRACT FOR THE PROCUREMENT AND PURCHASE OF ANY
4 ASSET DEEMED NECESSARY OR DESIRABLE BY THE SECRETARY IN
5 CONNECTION WITH ANY PROJECT.

6 SECTION 8. COOPERATION WITH OTHER GOVERNMENTS AND PRIVATE
7 INTERESTS.

8 (A) COOPERATION.--THE DEPARTMENT IS DIRECTED TO ADMINISTER
9 ALL PROJECTS UNDER THIS ACT WITH SUCH FLEXIBILITY AS TO PROMOTE
10 AND ENCOURAGE FULL COOPERATION AND FINANCIAL PARTICIPATION OF
11 FEDERAL, STATE AND LOCAL GOVERNMENTS, AGENCIES AND
12 INSTRUMENTALITIES, AS WELL AS PRIVATE INTERESTS, SO AS TO RESULT
13 IN AS EFFECTIVE AND ECONOMICAL A PROGRAM AS POSSIBLE. THE
14 DEPARTMENT SHALL RESPOND TO THE REQUIREMENTS OF ANY FEDERAL RAIL
15 FREIGHT TRANSPORTATION LEGISLATION NOW EXISTING OR ENACTED INTO
16 LAW IN THE FUTURE, TO THE EXTENT PERMITTED UNDER THE LAWS OF
17 THIS COMMONWEALTH, IN ORDER TO ENHANCE RAIL FREIGHT
18 TRANSPORTATION SERVICES, SYSTEMS AND FACILITIES WITHIN THE
19 COMMONWEALTH.

20 (B) AGREEMENTS.--THE DEPARTMENT IS HEREBY AUTHORIZED TO
21 ENTER INTO AGREEMENTS PROVIDING FOR MUTUAL COOPERATION WITHIN IT
22 AND ANY FEDERAL AGENCY AND ANY TRANSPORTATION ORGANIZATION, OR
23 TRANSPORTATION COMPANY, OR ONE OR MORE OF THEM, IN ANY OR ALL
24 PROJECTS, INCLUDING JOINT APPLICATIONS FOR FEDERAL GRANTS.

25 (C) PURPOSE OF ACT.--IT IS THE PURPOSE AND INTENT OF THIS
26 ACT TO AUTHORIZE THE DEPARTMENT TO DO ANY AND ALL OTHER THINGS
27 NECESSARY OR DESIRABLE TO SECURE THE FINANCIAL AID OR
28 COOPERATION OF ANY OF THE DEPARTMENT'S PROJECTS, AND TO DO AND
29 PERFORM ALL THINGS WHICH MAY BE REQUIRED BY ANY STATUTE OF THE
30 UNITED STATES OF AMERICA OR BY THE LAWFUL REQUIREMENTS OF ANY

1 FEDERAL AGENCY AUTHORIZED TO ADMINISTER ANY PROGRAM OF FEDERAL
2 AID TO TRANSPORTATION.

3 SECTION 9. RULES AND REGULATIONS OF DEPARTMENT.

4 IN ORDER TO EFFECTUATE AND ENFORCE THE PROVISIONS OF THIS
5 ACT, THE DEPARTMENT IS AUTHORIZED TO PROMULGATE NECESSARY RULES
6 AND REGULATIONS AND PRESCRIBE CONDITIONS AND PROCEDURES IN ORDER
7 TO ASSURE COMPLIANCE IN CARRYING OUT THE PURPOSES FOR WHICH
8 GRANTS MAY BE MADE HEREUNDER. THE RULES AND REGULATIONS SHALL
9 ALSO PROVIDE FOR THE OBSERVANCE OF THE RELEVANT SAFETY STANDARDS
10 OF ANY REGULATORY BODY HAVING JURISDICTION TO PROMULGATE SUCH
11 STANDARDS, BUT THE DEPARTMENT SHALL NOT BE AUTHORIZED HEREBY TO
12 DO ANYTHING OR SUFFER OR PERMIT ANY ACTION WHICH WILL VIOLATE
13 ANY AGREEMENT WITH A TRANSPORTATION ORGANIZATION OR COMPANY OR
14 ANY FEDERAL AGENCY, OR IMPAIR, SUSPEND, CONTRACT, ENLARGE OR
15 EXTEND, OR AFFECT IN ANY MANNER THE POWERS OF THE PENNSYLVANIA
16 PUBLIC UTILITY COMMISSION, OR OF THE INTERSTATE COMMERCE
17 COMMISSION, WHICH BY LAW ARE APPLICABLE TO THE RAILROAD COMPANY,
18 TRANSPORTATION ORGANIZATION OR MUNICIPALITY INVOLVED.

19 SECTION 10. GRANTS BY TRANSPORTATION ORGANIZATIONS OR
20 MUNICIPALITIES.

21 ANY TRANSPORTATION ORGANIZATION OR MUNICIPALITY SHALL BE AND
22 IS HEREBY AUTHORIZED TO MAKE ANNUAL GRANTS FROM CURRENT REVENUES
23 IN ORDER TO PARTICIPATE IN THE RAIL FREIGHT TRANSPORTATION
24 PROJECTS AND TO ENTER INTO LONG-TERM AGREEMENTS PROVIDING FOR
25 THE PAYMENT OF THE SAME.

26 SECTION 11. LIMITATION ON DECISIONS; FINDINGS AND REGULATIONS
27 MADE BY THE SECRETARY.

28 ALL DECISIONS, FINDINGS AND REGULATIONS MADE BY THE SECRETARY
29 PURSUANT TO THIS ACT SHALL BE FOR THE PURPOSE OF THIS ACT ONLY
30 AND SHALL NOT CONSTITUTE EVIDENCE BEFORE ANY REGULATORY BODY OF

1 THIS COMMONWEALTH OR ANY OTHER JURISDICTION.

2 SECTION 12. REPEALS.

3 SECTIONS 6(A), 7(A) AND 13 OF THE ACT OF FEBRUARY 11, 1976
4 (P.L.14, NO.10), KNOWN AS THE PENNSYLVANIA RURAL AND INTERCITY
5 COMMON CARRIER SURFACE TRANSPORTATION ASSISTANCE ACT, ARE
6 REPEALED.

7 SECTION 13. EFFECTIVE DATE.

8 THIS ACT SHALL TAKE EFFECT IMMEDIATELY.