**§ 489-g. System reproduction cost.** 1. The system reproduction cost of each railroad company shall be determined by ascertaining so far as may be practicable for the property of each railroad company used by it for transportation purposes and owned by or leased to it constituting the railroad system: (a) the cost of reproduction new less depreciation of road and equipment, (b) the value of land and rights, including value of rights in land in, above and under any public street, highway or parkway, and (c) working capital including material and supplies, provided, however, that if on the effective date of this title the major portion of the property of a railroad company and the management and control of such company are located outside of the territorial limits of the United States, the system reproduction cost of such railroad company shall consist of the property of such company located within the United States.

2. In making determinations under this section as to the property constituting the railroad system, the commissioner shall classify the property of each railroad company as between transportation or non-transportation so far as may be practicable.

3. In ascertaining depreciation of property under this section, consideration may be given to physical condition, average service lives of groups of property and other factors, which, however, shall not include earnings.

4. As used in this section, the term "value of land" means the value of similar land in the immediate vicinity used for other than railroad transportation purposes, and the term "value of rights in land in, above and under any public street, highway or parkway" means ten percent of the value of land in the immediate vicinity used for other than railroad transportation purposes.

5. In making determinations under this section, the commissioner shall consider the information contained in the publication entitled "Elements of Value of Property Used in Common Carrier Service" then most recently issued or made available by the bureau of accounts, cost finding and valuation of the interstate commerce commission. The commissioner may

consider information available from the commissioner of transportation or other regulatory agency having jurisdiction over the property of such railroad company, as well as information available from other sources, including reports required pursuant to section four hundred eighty-nine-q, and such other information on the subject as may be available to it.

6. In determining a system reproduction cost for purposes of railroad ceilings determined for assessment rolls filed on or after January first, two thousand three, grading shall be deemed a depreciable asset. The allowance for grading in place shall be eighteen percent per annum but shall not exceed ninety percent.

7. In determining a system reproduction cost for purposes of railroad ceilings determined for assessment rolls filed on or after January first, two thousand three, the commissioner shall not include a factor for any construction overhead in its calculation, nor shall such overhead costs be included for any new construction begun on or after the effective date of this subdivision.

8. (a) In determining a system reproduction cost for purposes of railroad ceilings established for assessment rolls filed in two thousand three, the commissioner shall allow for increased depreciation of railroad track. For high speed/high tonnage track and medium speed/high tonnage track, whether main track or side track, depreciation shall be increased to seventy-five percent. For low speed/medium tonnage track, whether main track or side track, depreciation shall be increased to eighty-five percent. For low speed/low tonnage track, whether main track or side track, depreciation shall be increased to ninety percent.

(b) Such increased depreciation pursuant to paragraph (a) of this subdivision shall be granted for railroad ceilings established for assessment rolls filed in two thousand four and thereafter only upon application of a railroad company. Any increased depreciation shall be granted to all the tracks owned by the railroad in this state not otherwise exempt from inclusion in the calculation of railroad ceilings. Such grant of increased depreciation shall continue for ten years and may be approved for subsequent periods of ten years upon application and

compliance with the standards established by rule and regulation. The commissioner shall, in consultation with the department of transportation and the division of the budget, establish by rule and regulation the schedules for increased depreciation and standards for improved service that must be met in order for a railroad to receive such increased depreciation for railroad ceilings established for assessment rolls filed in two thousand four and thereafter. A railroad company that has failed to file an application or failed to meet the standards for improved services contained in any such rules and regulations of the commissioner prior to the establishment of railroad ceilings for assessment rolls filed in two thousand four shall receive one-half the benefit for increased depreciation that such company would have received had such application been made and such standards been met in a timely fashion. The standards for increased depreciation may be based upon increased tonnage, increased level of passenger service, increased number of passenger trains and/or improved on-time performance, increased average speed, and any other factors indicating improved rail service as the commissioner and the department of transportation shall specify.