

The original documents are located in Box 22, folder “Railroad Revitalization and Regulatory Reform Act” of the Loen and Leppert Files at the Gerald R. Ford Presidential Library.

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1/29 - returned to Senate for further action

2/5 - S. 2718 signed into Law - (Signing Ceremony)

PL 94-210



DIFFICULTIES WITH THE OMNIBUS RAIL LEGISLATION



<u>ISSUE</u>	<u>SENATE</u>	<u>HOUSE</u>
Trust Fund (<i>or total funding</i>)	\$3.9 billion too much	\$0.8 billion too much
ConRail	\$1.4 billion too much	\$1.2 billion too much for rail rehabilitation
Northeast Corridor	\$2.055 billion too much	\$.7 billion too much for branch line subsidies
Other Funding	\$1 billion too little for rehabilitation loan guarantees	\$1 billion too much for rail rehabilitation.
	\$1.25 billion too much for commuter rail services subsidies	\$.180 billion too much for branch line subsidies
	\$.075 billion too much for rail right-of-way conversion	\$.4 billion too little for supplemental assistance.
		\$.2 billion too much for non-NEC rail passenger service
		\$.2 billion too little for the NEC improvement program

ISSUE

USRA AUTHORITY

SENATE

HOUSE

USRA has the power to control all Federal investment in ConRail.

USRA has the power to forgive all or any part of the Federal investment in ConRail.

USRA has the power to control Federal rehabilitation assistance to the railroads and to forgive the repayment of such assistance.

Redeemable preference shares would cost the Government \$600 million in lost interest for every billion dollars of such shares purchased by the Government.

The proprietary of the rail fund financing mechanism.

Anticipation of trust fund.

USRA can block supplementary transactions.

USRA controls the flow of funds to the NEC improvement program.

USRA controls the loan guarantee fund.

ISSUE

SENATE

HOUSE

ConRail Implementation

Certificates of Value

Constitutional minimum on certificates of value.

Dividends are forgiven when cash is not available. Interest is payable only if sufficient cash is available. When cash is not available additional preferred stock is issued in lieu thereof but a cap is put on total accumulation.

Accumulation of Interest

No payment by ConRail of interest or dividends until it has \$500 million earning cushion.

Supplementary Transactions

Supplementary transactions allowed only for four years.

Supplementary transactions allowed for six years.

USRA or ICC can block supplementary transactions.

ConRail can block supplementary transactions.

Indemnification for all Transferees in the Region

Indemnification for all Transferees in the Region

No GIC

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ISSUE

SENATE

HOUSE

Northeast Corridor

\$2 billion too much

\$200 million too little

USRA Controls funding

Establishes NEC Corporation

Corporation immediately
acquires corridor

Amtrak acquires 7 off-corridor
lines

Establishes Disputes Board

\$200 million to Amtrak for
non-NEC Service

Mergers

No substantial DOT role

Same

Effectiveness of 2-year time limit

Same

Branch Line Subsidies

\$677 million too much

\$180 million too much

Subsidies available nationwide thru 1983

--

--

4-1/2 year program in Region

100% Federal share for 1st year; 90%
thereafter in Region. 90% Federal
share throughout length of nationwide program.

100% Federal share for 6 months,
ratchets down from 90% by 20% per year.

All funds allocated under entitlement
formula.

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ISSUESENATEHOUSE

Bureaucracy Proliferation

RSPO permanent

Same

ICC Public Counsel

Same

NEC Corporation

--

USRA expanded

--

Disputes Board

--

National Railroad Minority
Research Center

--

Regulatory

Minimum Rates

Carrier can reduce rates without ICC interference if it doesn't lower "going concern value". This is vague term, although bill provides presumption that rate will not decrease going concern value if rate is above variable cost.

Variable cost is not defined but is left to ICC to determine. Allows abuse.

Variable cost is not defined but is left to ICC to define. Allows abuse.

ISSUE

SENATE

HOUSE

Regulatory (Continued)

Umbrella Ratemaking

Same approach as House but Senate proviso is broader and provides that National Transportation Policy continues to apply to whole Act.

Prohibits umbrella ratemaking but adds vague proviso saying that nothing in this bill affects protections under sections 3, 4, and 4 of Interstate Commerce Act or diminishes protection against "predatory, unfair, destructive, etc." competition.

Maximum Rate Making

Applies market dominance concept, but introduces two presumptions of market dominance. The first might be interpreted to find market dominance if there weren't at least 2 railroads or railroad and other mode competing for "business" of "shippers" in area. If "business" refers to all business and if shippers refer to all shippers (regardless of whether the business or shipper is relevant) then it's impossible hurdle. This strange interpretation might be adopted because second presumption focuses upon the relevant commodity at shipper at issue and question therefore arises as to what first presumption adds.

No-Suspend Zone

There's no zone except if no market dominance. In that event zone is only for increases.

At present, applies limited 3 year no-suspend zone of 7 percent up and down each year.

Time Limit

No provision

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ISSUE

SENATE

HOUSE

Restrictions on all suspensions.

House has provision requiring any complainant to prove injury, likelihood of success, and consistency with National Transportation Policy before obtaining suspension. Senate doesn't have this.

Port Equalization

Provides that bill does not change ICC's duty and responsibility to "guarantee" the equality of rates between ports. ICC has no such responsibility today.

Recyclables

Seems to impose more regulation where recyclables involved.

Seems to impose more regulation where recyclables involved.

Rate Bureaus

Exempts general increases and group and mileage factor rates from reform -- different words than House and perhaps more extensive exemption.

Exempts general rate increases and "broad tariff changes" from reforms - in other words, a great segment of all rates are exempted.

Doesn't prohibit rate bureau protest of independent action.

Doesn't prohibit rate bureau protest of independent action.

Abandonments

8-year subsidy program.

May prohibit the recent procedural innovations at the ICC, and doesn't adopt Administration procedural changes.

TOTAL RAIL FUNDING

The Railroad Revitalization and Regulatory Reform Act of 1975 (H.R. 10979) reported by the House Committee on Interstate and Foreign Commerce contains a total of approximately \$6.4 billion in new authorizations for providing Federal financial assistance to the Nation's railroads: \$2.1 billion for ConRail; \$900 million for improving intercity rail passenger service in the Northeast Corridor and \$200 million for such service outside the Corridor; \$1.0 billion in grants or loans and \$2.0 billion in loan guarantees for nationwide rail rehabilitation, and an additional \$180 million in rail service continuation subsidies for the Northeast and Midwest. A bill to be reported by the House Public Works Committee will add \$125 million for subsidizing commuter rail service in the Region to this \$6.4 billion. In addition to these new authorizations, H.R. 10979 would retain \$500 million in obligational authority for the United States Railway Association under Section 210(b) of the Regional Rail Reorganization Act of 1973. This is completely unnecessary because the House bill contains the specific authorizations to provide virtually all the Federal funds required for assistance to the railroads. USRA needs only \$30 million in the Section 210(b) account to cover outstanding loans to ConRail and to the MKT Railroad.

The Administration, after detailed and careful study, has determined that Federal financial assistance to the railroads should total approximately \$5.6 billion, or about \$800 million less than the Commerce Committee bill. This \$5.6 billion in new authorizations would be composed of \$2.1 billion for ConRail; \$1.08 billion for intercity rail passenger service in the Northeast Corridor; \$2.0 billion in loan guarantees for rail rehabilitation; and \$400 million in assistance for supplementary transactions. Moreover, the Administration believes that any commuter rail subsidies should be provided out of the existing \$11.8 billion in contract authority given to the Urban Mass Transportation Administration under the National Mass Transportation Act of 1974.

There can be no argument that the many problems facing the nation's rail industry are serious and threaten much economic harm to the country if not corrected. The pressure to solve these problems should not, however, lead the Federal Government to make an excessive amount of financial assistance available to the private rail sector. The arbitrary increase in the Federal investment of some \$800 million in the Committee bill and the unnecessary \$470 million left in Section 210 funds will interfere with the managerial and operating efficiencies which the Administration is seeking to stimulate with its \$5.6 billion investment and will unnecessarily benefit railroad stockholders at the expense of the taxpayers.

ISSUE: RAIL FUNDING

H. R. 10979 OMNIBUS RAIL BILL

Section 802(a)(1)

PROBLEM:

This Section as reported by the Committee on Interstate and Foreign Commerce contains \$600 million in Federal financial assistance to the railroads which is over and above the \$5.6 billion which the Administration after exhaustive analysis of the needs of the railroads has recommended as a proper level of Federal assistance to the rail sector. This excess \$600 million is part of the \$1 billion in direct grants or loans to the railroads proposed for the improvement of facilities and services account in Section 802(a)(1). The Administration has recommended \$400 million in Federal funding to assist any transfers of rail properties which might be supplementary to the Final System Plan. This \$600 million in Federal financial assistance to the railroads which is in excess of the Administrations' determination of demonstrated need represents little more than a pass-through of taxpayers' dollars to railroad stockholders.

RECOMMENDATION:

Amend the December 3 subcommittee print of H. R. 10979 as follows:

Page 65, line 9, strike out "\$300,000,000" and insert in lieu thereof "\$80,000,000".

Page 65, line 10, strike out "\$600,000,000" and insert in lieu thereof "\$160,000,000".

Page 65, line 11, strike out "\$900,000,000" and insert in lieu thereof "\$240,000,000".

Page 65, line 12, strike out "\$1,200,000,000" and insert in lieu thereof "\$320,000,000".

Page 65, line 13, strike out "\$1,500,000,000" and insert in lieu thereof "\$400,000,000".

CERTIFICATES OF VALUE

What are they? CV's constitute, in essence, a guarantee by USRA, backed by the full faith and credit of the United States, that the securities of ConRail issued to the estates of the bankrupt railroads in exchange for their properties, will achieve sufficient value before 1988 that the exchange will be fair and equitable to the estates as required by law.

Why are they needed? The law requires that the exchange of ConRail/USRA securities for properties of the bankrupt carriers be "fair and equitable". Because of the uncertainties associated with the establishment of a company such as ConRail, the securities to be provided by ConRail may not equal the net liquidation value of the properties ConRail is to receive at the time of the exchange. The CV's assure that, if those securities do not attain that value within a reasonable time with interest, the Government will pay the difference. This will assure that the total securities package received by the estates is fair and equitable.

What is the controversy? USRA recommended that the top value of the CV's be the USRA-determined "net liquidation value" of the properties going to ConRail. That is the value creditors receive when their property is liquidated, or sold, rather than continued in use by the borrower. USRA found that, under the law, net liquidation value is the appropriate value for this proceeding and calculated that value for ConRail's properties at \$422 million. Of course, the railroads' creditors do not agree with either the valuation theory or USRA's calculation. The Committee on Interstate and Foreign Commerce rejected the creditors' proposals to leave the Government guaranteed value totally open-ended. Rather, the Committee chose to authorize CV's which guarantee net liquidation value as determined by the special court. It thus recognized that it will be the courts which will finally settle the issue, but the Committee gave its full support to both USRA's choice of valuation theory and the manner USRA used to calculate that value.

The Administration and USRA wholeheartedly support the Committee's bill in this regard. On this basis, the CV's will assure a fair and equitable transaction, but do not constitute a windfall to creditors of the bankrupts. The creditors' proposals should be rejected as a totally unwarranted "key" to the Federal Treasury.



Omnibus Rail

Summary Comparison of Funding

	\$ (New Authorizations)		
	<u>Administration</u>	<u>House</u>	<u>Senate</u>
<u>ConRail</u>			
→ . Purchase of Securities	2,100	2,100	3,000
. Electrification	-	-	200
→ . (Loan Guarantees) <i>out</i>	-	(470) ^{1/}	-
<u>Supplemental Transfer</u>	400	-	-
<u>Northeast Corridor</u>	1,080	1,100	3,256
<u>Branch Line Subsidies</u>	-	180	858
<u>Commuter Subsidies</u>	-	-	125
<u>Other Railroads</u>			
→ . Grants <i>need \$400m</i>	-	1,000	1,200
. (Loan Guarantees)	(2,000)	(2,000)	(1,470) ^{1/}
<u>Other</u>	-	-	59
Totals	5,580	6,850	10,168

+ 285m

Problem

+ 500m

+ 125 Commuter (in Public Works)

*Adams to offer money amendments
14w Mike Brown.
Stegens says*

^{1/} \$470M under Section 211



Omnibus Rail
Administration Funding

	<u>Total</u> <u>(Authorized)</u>	<u>\$M (Estimated Outlays)</u>				<u>Out Years</u>
		<u>76</u>	<u>TQ</u>	<u>77</u>	<u>78</u>	
<u>ConRail</u>	2,100	400	200	540	425	535
<u>Supplementary</u> <u>Transfers</u>	400	-	-	-	200	200
<u>Other RR's (Loan</u> <u>Guarantees)</u>	(2,000)	-	-	-	-	-
<u>Northeast</u> <u>Corridor</u>	<u>1,080</u>	<u>-</u>	<u>-</u>	<u>25</u>	<u>330</u>	<u>725</u>
	5,580	400	200	565	955	1,460



Omnibus Rail
House Funding

	<u>Total</u> <u>(Authorized)</u>	<u>\$M (Estimated Outlays)</u>				
		<u>76</u>	<u>TQ</u>	<u>77</u>	<u>78</u>	<u>Out Years</u>
<u>ConRail</u> ^{1/}	2,100	400	200	540	425	535
(Loan Guarantees)	(470)	-	-	-	-	-
<u>Other RR's</u>	1,000	100	100	300	300	200
(Loan Guarantees)	(2,000)	-	-	-	-	-
<u>Northeast Corridor</u>	1,100	-	-	25	330	745
<u>Branch Line</u> <u>Subsidies</u>	<u>180</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>90</u>	<u>90</u>
House Totals	6,850	500	300	865	1,145	1,570
Administration Totals	<u>5,580</u>	<u>400</u>	<u>200</u>	<u>565</u>	<u>955</u>	<u>1,460</u>
House Add-on	1,270	100	100	300	190	110

^{1/} Under Section 211

Omnibus Rail

Senate Funding

	<u>Total</u> (Authorized)	<u>\$M (Estimated Outlays)</u>				<u>Out years</u>
		<u>76</u>	<u>77</u>	<u>78</u>		
<u>Rail Trust Fund</u>						
- For ConRail	3,000	400	300	600	600	1,100
- ConRail Electri- fication	200	-	-	50	50	100
- Other RR's	<u>1,200</u>	<u>100</u>	<u>100</u>	<u>400</u>	<u>400</u>	<u>200</u>
	4,400	500	400	1,050	1,050	1,400
<u>Northeast Corridor</u>	3,256	230	125	500	750	1,651
<u>Branch Line</u> <u>Subsidies</u>	858	15	15	50	75	500
<u>Commuter Subsidies</u>	125	-	40	45	40	-
<u>Other</u>	59	25	9	25	-	-
(Loan Guarantees) ^{1/}	(1,470)	-	-	-	-	-
Senate Totals:	10,168	770	589	1,670	1,915	3,551
Administration Totals:	5,580	400	200	565	955	1,460
Senate Add-on:	+4,588	+370	+389	+1,105	+960	+2,091

^{1/}includes \$470M under Section 211

PRICING FLEXIBILITY

An excessively rigid and unrealistic regulatory system is a central problem in the decline of the railroad industry. A more flexible system, and in particular a more flexible pricing system, is necessary for the future success of our Nation's railroads.

Regulation of rates by the Interstate Commerce Commission is all pervasive. Much of the problem with the present railroad regulatory system is a result of policies and interpretations of the ICC. The ICC has historically held the railroads' rates to an artificially high level to protect another mode. At the same time, the ICC held other rates to levels that did not even allow the railroads to recover their costs.

The important point to remember, however, is that even with the best of motives and knowledge, a regulatory type system cannot match the flexibility of a competitive market. There are delays and costs in even the best-run regulatory system. Frivolous complaints must be heard, and even the most reasonable rate must be approved. The delays and inflexibility of a regulatory system are costly in themselves, but they are disastrous when they cover only some of the competitors and not all. This is the situation in the railroad industry. The railroads are essentially carriers of large shipments and bulk commodities. These commodities are also carried by water and motor carriers and by pipelines, but when carried by the water, motor, or pipeline, they are in large part unregulated. The Interstate Commerce Act exempts "private" motor carriers, and the transportation of most agricultural items by motor carriers is also exempted. In addition, water carriers are in large part unregulated, and pipeline economic regulation is minimal.

This inequality of regulation, compounded by the historic tendency of the ICC to frustrate competitive rail rates, has put the rails at a serious competitive disadvantage and has contributed significantly to the diversion of large amounts of traffic from the railroads. In 1947 the railroads carried nearly two-thirds of the total ton-miles of intercity freight traffic. Today railroads carry less than forty percent.

It is also very important to realize that railroads are "common carriers" whose service is open to all. Much of the traffic has been diverted to "private" carriers or specialized exempt carriers. Thus, this diversion has not only been a loss to the railroads it has also been of particular significance and detriment to the small shipper and rural community who is uniquely dependent on the common carrier system.

Pricing flexibility is at the heart of the railroad problem. If railroads are to regain lost traffic, or in fact to retain even their present traffic, they must be able to lower their rates, innovate new services, and respond to new and changing circumstances. If railroads are to be able to increase their revenues and to attract the resources to revitalize the industry, they must be able to raise their rates in a timely way.

The regulatory proposals relating to pricing flexibility in H.R. 9802 are sound. They are not the same provisions as were proposed by the Administration in the Railroad Revitalization Act, but the provisions of H.R. 9802 would go a long way towards introducing the type of pricing flexibility needed today.

Some questions have arisen, however, with respect to these reforms, and it might be helpful to list a few of these questions and then to respond:

Q. Why is downward pricing flexibility needed? What the railroads need is more revenue and not less.

A. It is quite true that more revenue is needed and one of the ways to get that extra revenue is to "outbid" your competitor by way of a lower price. As any businessman knows, as long as the bid price covers the costs, it is sound business to attract more business by reducing the price.

Q. If the railroads are allowed to reduce their prices, won't they engage in "predatory conduct", price below their costs, and drive their competitors out of business? Once the railroads are monopolistic they can charge whatever they want.

A. This type of argument distorts the language of H.R. 9802 and the facts. First, the present Interstate Commerce Act prohibits predatory conduct, and H.R. 9802 does nothing to change these sections of the Act that give protection against such conduct (Sections 2, 3, and 4). In fact, the bill adds to the protection against predatory conduct by clarifying that protection and using a variable cost test. If a railroad prices below its variable cost -- it's predatory. Second, the type of scenario presented by some assumes a big and healthy railroad, able to absorb the temporary losses produced by below-cost pricing and a small and weak competitor, not able to fight back. The attached sheet shows that some of the competitors of the railroads are a lot bigger and stronger than many of today's railroads. In addition, if the railroads were able to push a competitor out of the market, how difficult would it be for a new competitor to re-enter? Not very.

Q. Aren't the water carriers the low-cost mode?

A. The basic answer depends on the particular case, but when the water carriers talk of costs, are they talking of all costs, both those privately and publicly borne? If total costs are analyzed, the water carriers are not the low-cost mode.

Q. Are the pricing reforms of last years' STA enough?

A. No - the STA was valuable in introducing the ideas of regulatory reform. It was a step forward in an educational sense, but it did not contain significant regulatory reform. It simply provided for a one-year no-suspend zone of 7 percent. One year and 7 percent isn't enough even for an experiment.

TABLE 1

Major Regulated Water Carriers, Their Parent Companies and Parent
Company Gross Revenues
(Millions)

<u>Carrier</u>	<u>Parent</u>	<u>Gross Revenue</u>
Ohio Barge Line	U.S. Steel	\$9,337.6
Warrior & Gulf Navigation	U.S. Steel	9,337.6
Valley Line	Chromalloy American	789.0
American Commercial Barge Lines, Inc.	E. Texas Gas Transmission	692.6
Union-Mechling Barge Lines	Dravo Corporation	579.6
Ohio River Co.	Eastern Gas & Fuel Associates	543.4
Federal Barge Line	Pott Industries	150.6
Sioux City & New Orleans Barge Line	Henry Crown & Co.	N.A.
Ingram Corporation	Ingram Materials, Inc.	N.A.

Privately Held

TABLE 2

Independent Small Class One Railroads and Gross Revenue
(Millions)

Greenbay & Western Railroad	\$10.0
Duluth, Winnipeg & Pacific Railroad	17.1
Auto Train	28.5
Richmond, Fredericksburg & Potomac Railroad	32.3
Maine Central Railroad	34.1
Florida East Coast Railroad	52.1
Missouri-Kansas-Texas (Katy Railroad)	93.1

Talking Points for
Downward Pricing Flexibility

1. Upward pricing flexibility, without downward pricing flexibility, is a betrayal of the public interest. One object of regulatory reform is to get lower rates for the users of transportation services.
2. The railroads need both upward and downward pricing flexibility. Without downward pricing flexibility, how will they regain traffic already lost?
3. The present Interstate Commerce Act and the House bill provides ample protection against so-called predatory pricing:
 - a. Section 2, 3 and 4 contain basic protection and these are not affected.
 - b. Amendment to House bill makes it doubly clear that 2, 3 and 4 still apply.
 - c. Rates may not be reduced below variable costs.
 - d. Rate zone is only 7 percent
 - e. Reforms in rate bureau provisions will give some help to counter rail power, if any exists.
4. Water carriers and motor carriers have the resources to fight back any competition from railroads. The regulated water carriers are all parts of very large conglomerates, such as U.S. Steel. They are very profitable.
5. Most of water carriers are unregulated. How can water carriers as a whole argue that the railroads should be regulated when they themselves are not? (The motor carriers who compete with railroads are also mostly unregulated.)
6. The water carriers have in recent years received billions of dollars of Federal subsidy for their "rights-of-way". This is a great advantage over railroads. Water carriers are also in large part unregulated. The pricing flexibility sections of House bill simply add some equity to situation.

"SUPPLEMENTAL TRANSACTIONS AND THE NEED FOR
A CONTINUING REORGANIZATION OF THE BANKRUPT
RAILROADS IN THE NORTHEAST AND MIDWEST"

By virtue of legislation currently before the House of Representatives, the Federal government is investing between \$2 and \$3 billion in an attempt to reorganize the bankrupt railroads in the Northeast and Midwest United States. If this reorganization should fail, the inevitable next step would be nationalization of these lines, and this, in turn, would lead to nationalization of the railroad industry nationwide. The cost to the taxpayers of nationalization would be astronomical. Therefore, the Congress must consider any reasonable measure which would enhance the chances of success of the reorganization.

The United States Railway Association has recommended that, to ensure the success of this reorganization, we implement a continuing reorganization of the bankrupt properties for a period of six years after the date of conveyance to ConRail (the time frame during which the Federal government will be pouring money into ConRail).

Under USRA's plan, the continuing reorganization would be implemented by means of "supplemental transactions" in which properties of ConRail might be transferred to one or more profitable railroads. Supplemental transactions could be proposed by the ICC, USRA, or DOT. In all cases, a supplemental transaction would have to be approved by a special court. That court would ensure that any proposal would be both in the

public interest from a transportation standpoint and fair and equitable to the estates of the railroads in reorganization.

The House rail bill, H.R. 10979, provides for a continuing reorganization. But H.R. 10979, as presently written, leaves out a crucial element of the plan calling for continuing reorganization proposed by USRA. As presently written, the bill would allow the management of ConRail to prevent proposals for supplemental transactions from even being submitted to the special court. Because such a continuing reorganization may involve the sale of some of the lines of ConRail and result in a reduction in size of the railroad (and result likewise in a decrease in the cost of the reorganization to the taxpayer), ConRail management will have a vested interest in opposing such transactions. It is not hard to imagine ConRail management, with a potentially unlimited call on the Federal Treasury, being unwilling to go along with any proposal that would diminish the size of that railroad or the power of ConRail's executives. At a time when the very future of the entire transportation system in the Northeast and Midwest United States is at stake, ConRail should not be allowed to unilaterally block, by reason of its own self-interest, transactions which might enhance the chances of success of the reorganization.

When it is receiving between \$2 and \$3 billion in Federal financial assistance, ConRail management should not be allowed to prevent steps which would enhance the achievement of a successful reorganization, and an amendment should be adopted to eliminate this ConRail power of veto.



AMENDMENT TO H.R. 10979,
As Referred To The Committee
On Interstate And Foreign Commerce
"CONTINUING REORGANIZATION"

On page 103, at line 21, strike the words

"Supplemental Transactions: and substitute
in lieu thereof "Continuing Reorganization".

On page 103, at line 22, strike the word "If" and

insert in lieu thereof:

"The reorganization process described in the Regional Rail Reorganization Act of 1973 and the amendments thereto set forth in this Act is hereby deemed to be a continuing reorganization for a period of six years from the date of enactment of this Act. To insure the financial viability of the Corporation and at the same time provide protection for the federal funds invested pursuant to this act it is hereby provided if"

On page 105, at lines 11-12, strike the words "as defined by the purposes of the Act and the goals of the final system plan".

On page 105, at line 15, immediately after "transferee" insert the words "(other than the Corporation where it is a proposed transferor)".

On page 106, at line 10, immediately after "determines insert the words ", after consultation with the Commission,".



On page 107, at lines 7-8, strike the words "Association, the Secretary, or the carriers involved", and substitute in lieu thereof "Association (with regard to a proposal developed by the Association or the Commission) or the Secretary (with regard to a proposal developed by the Secretary)".

On page 107, at line 12, immediately after the word "transferee" insert the words "(other than the Corporation where it is a proposed transferor)".

On page 108, strike out line 13, and substitute in lieu thereof the following:

"(d) DEFINITIONS. (i) For all purposes of this section, the term 'in the public interest' means in the public interest as defined by the purposes of the Act and the goals of the final system plan, including the goal of the maintenance of a rail service system adequate to meet the rail transportation needs and service requirements of the region.

(ii) For all purposes of this section,"



AMENDMENT TO RAIL BILL TO PROVIDE FOR
"CONTINUING REORGANIZATION"
OF THE BANKRUPT RAILROADS

This amendment adds language to the House rail bill making it unmistakably clear that Congress intends the reorganization of the bankrupt railroads in the Northeast and Midwest to be a continuing reorganization. This continuing reorganization would be implemented by "supplemental transactions", where they are feasible.

This amendment also modifies the present section of the bill dealing with supplemental transactions. The primary change is to restore language from the USRA proposed amendments which would prevent ConRail management from blocking a supplementary transfer of some of its property to a profitable railroad. ConRail must not be allowed the power, which the bill gives it, to block a supplemental transaction. It could very easily happen that in a few years supplementary transfers to profitable railroads are available that are in the public interest and provide a very attractive structure for the rail system in the Northeast and Midwest. Yet ConRail could at that time, regardless of whether it is meeting the projections in the final system plan, try to prevent such a transfer, because in its own narrow self-interest, the transfer seems unattractive. ConRail should not have the power to block a transfer which USRA, the Secretary of Transportation, and the special court have found to be in the public interest. The public goal of a viable rail system is the goal to be sought, not some permanent structure for ConRail.

The amendment requires the Secretary of Transportation to consult with the Interstate Commerce Commission before petitioning the special court for approval of a proposal for a supplemental transaction.

The amendment also elaborates on the definition of "public interest" that the special court must consider in deciding whether to approve a supplemental transaction. The amendment provides that the special court shall, in determining "public interest", give special consideration to the goal of the maintenance of a rail service system adequate to meet the rail transportation needs and the service requirements of the region.

et file
fyi

THE WHITE HOUSE
WASHINGTON

DATE: 5/10/75

TO: Bill Kendall/Vern Loen

FROM: Max L. Friedersdorf

Comments Please

due Mauday



The concepts of option No. 1 should
be explored with Rep's Stoggers, Bennett,
Rooney & Shubitz, Mahon, Cedarberg, McFell
& Carter before legislation sent to the other org.
+ the legislation

Date: May 10, 1975

Time: 10:00 a.m.

FOR ACTION: Bob Hartmann
Jack Marsh
Phil Buchen
✓ Max Friedersdorf
Jim Cannon

XXXXXXXXXXXXXXXXXXXX

Alan Greenspan
Bill Seidman

FROM THE STAFF SECRETARY

DUE: Date: Monday, May 12, 1975

Time: 12:00 noon

SUBJECT:

Lynn memo (5/9/75)
re: Railroad Revitalization Act.

ACTION REQUESTED:

- | | |
|---|--|
| <input type="checkbox"/> For Necessary Action | <input checked="" type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks |

REMARKS:

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jerry H. Jones
Staff Secretary





EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

MAY 9 1975

MEMORANDUM FOR: THE PRESIDENT
FROM: JAMES T. LYNN *J. Lynn*
SUBJECT: RAILROAD REVITALIZATION ACT

Issue

Before we can send the rail bill to Congress, the Department of Transportation has raised one final issue for decision. Should the rail regulatory reform bill (the Railroad Revitalization Act) propose the elimination of antitrust immunity for rate bureau discussions and agreements on general rate increases?

Background

In 1948, Congress passed the Reed-Bulwinkle Act amending the Interstate Commerce Act to permit carriers to form rate-setting groups known as rate bureaus to set rates and charges for transportation services. Rates set in this manner are filed with the ICC, and the underlying agreements are immunized from prosecution under the antitrust laws. This provision of the Interstate Commerce Act not only authorizes and immunizes voluntary rate agreements among carriers, but also enables several carriers to work together to impose cartel rates on other carriers.

In drafting the proposed regulatory reform legislation in the rail area, members of the Executive Branch Task Force (DOT, DOJ, CEA, CWPS, and OMB) agreed upon the need to substantially reduce antitrust immunity for those rate bureau activities which serve to restrict competition and discourage pricing flexibility and new service innovations. Accordingly, language was drafted which would outlaw specific anticompetitive activities, while preserving essential administrative services provided by the rate bureaus; e.g., the publication of rates, the collection of statistics, the arranging for the interchange of traffic over the lines of two or more carriers, etc.

The bill as currently written would immediately upon enactment prohibit discussion, agreements or voting on single-line rates, limit participation in discussions of joint line rates to carriers actually involved in the movement, and prohibit rate bureaus from taking action to suspend or protest rates. After three years, discussion and agreement on general rate increases (across the board percentage increases to compensate for inflation, higher fuel costs, etc.) would also be prohibited.

However, in recent discussions with the railroads and various interest groups, DOT has encountered strong objection to the prohibition of general rate increases. Accordingly, they would propose to amend the bill before it is submitted to permit general rate increases to cover increased costs of fuel and labor only.

Options:

Option 1: As agreed by the task force, include in the legislation a provision to outlaw general rate increases beginning three years after enactment of the bill.

Pro: Where increases in costs occur, individual railroads will have flexibility under the new legislation to increase their prices without need to resort to cartel type action. This approach is in keeping with overall Administration policy of eliminating anticompetitive activities. It maintains a standard approach toward all price-fixing activities of the rate bureaus and is consistent with the position we expect to take in truck and air regulatory reform proposals. Elimination of this provision might make the Administration's proposal appear rather anemic. Including the proposal provides room to negotiate and compromise with the Committees and interest groups later if necessary.

Con: Such a provision will be vigorously opposed by the industry. (DOT maintains that by including it, we will lose railroad support for the legislation.) In addition, it could be viewed as an unreasonable policy considering the current financial difficulties facing the railroads. If Congress does not allow the proposed pricing flexibility, the elimination of general rate increases could cause major financial problems to the industry.

Option 2: Include in the legislation a provision limiting the use of general rate increases to increased labor and fuel costs only.

Pro: Such a position would improve chances of obtaining industry support for the bill. It might be viewed as a more reasonable approach in light of the financial problems of the railroads. In addition, it leaves some mechanism in place to permit accelerated price increases should Congress fail to approve the proposed pricing flexibility.

Con: Such an approach continues to sanction price-fixing activities. It could be viewed as being in conflict with the bill's increased pricing flexibility since permitting collusive price-fixing even on this limited scale, could negate the competitive



benefits otherwise gained. In addition, most general rate increases now are requested in the name of rising fuel or labor costs; thus, while this approach appears to limit the use of general rate increases, in effect it merely preserves the status quo. Furthermore, this approach essentially puts labor negotiations on a cost-plus basis and could be viewed as encouraging indexing of labor and fuel prices.

Decision

Option 1: _____ (Supported by: Justice, CEA, CWPS, OMB)

Option 2: _____ (Supported by: DOT)

EMBARGOED UNTIL 3:00 P.M., EDT,
MONDAY, MAY 19, 1975

May 19, 1975

Office of the White House Press Secretary

THE WHITE HOUSE

FACT SHEET

THE RAILROAD REVITALIZATION ACT

The President is transmitting to Congress today the Railroad Revitalization Act (RRA) which will eliminate excessive and antiquated regulatory restrictions, increase competition in the railroad industry, improve customer services, strengthen the ability of the railroads to adjust to changing economic conditions, and provide financial assistance in the form of loan guarantees to help the railroads make needed improvements in their facilities.

This is the first piece of the President's overall program to achieve fundamental reform of transportation regulation. Similar reform measures for truck and airline regulation will follow shortly. Taken together, these proposals, representing the most comprehensive approach to reform in the long history of economic regulation of the transportation industry, will substantially benefit consumers annually and conserve scarce energy resources.

BACKGROUND

This legislation builds on the Transportation Improvement Act (TIA) which was introduced in the 93rd Congress. A Surface Transportation Act, incorporating many features of the TIA, was passed by the House, but final action was not taken by the Senate. This legislation proposes a number of fundamental changes designed to significantly reduce government intervention in the day-to-day business of the railroads and their customers.

PRINCIPAL OBJECTIVES OF THE LEGISLATION

1. To provide for more efficient, more competitive, and thus less costly rail transportation. This Act will substantially increase reliance on normal competitive market forces to set shipping rates. It is specifically designed to cause a reduction in rates which are too high and are inequitable to shippers and consumers. For the first time, railroads will be able within reasonable limits to adjust rates without ICC interference. In addition, the regulatory decision making process will be simplified, thereby eliminating the high costs involved in lengthy litigation.
2. To increase competition between various kinds of transportation and encourage a better utilization of resources by assuring that goods are transported by the most efficient means of transportation. The present regulatory process enables the ICC to hold railroad rates at unreasonably high levels in order to protect other modes of transportation from the effects of competition. As a result, traffic which can most economically be moved by rail is

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often diverted by the rate structure to other forms of transportation. This results in higher shipping costs and consumer prices. By providing for greater pricing flexibility, shippers will be able to take greater advantage of low cost, energy efficient rail transportation. Substantial fuel savings will also result from these reforms.

3. To eliminate certain antitrust immunities which permit carriers to set and hold rates at unreasonably high levels. At present rate bureaus or carrier association sanctioned by the ICC are permitted to act collectively to establish rates and charges for transportation services. Their actions are now immune from Federal antitrust laws to which nearly every other business in the country is subject. The proposed legislation seeks to prohibit rate bureaus from engaging in certain specified rate making activities which serve to stifle competition and discourage new service innovation. For example, it will prohibit rate bureaus from discussing and agreeing on rates involving only one railroad and it will limit the use of general rate increases to increases in labor and fuel costs only. The legislation will make anticompetitive rate bureau activities subject to normal antitrust prosecution, while preserving their legitimate service functions.
4. To assure that regulation provides adequate protection to consumer interests. The Administration does not seek to eliminate all regulation. For example, the protection of shippers and carriers from predatory pricing practices is a proper function of government. This legislation carefully preserves regulation which acts to serve the public interest. The user of rail transportation services is assured an appropriate right of redress for what he considers to be an unfair or illegal rate and the legitimate interests of competing carriers are protected as well.
5. To provide needed financial assistance to the railroad industry. An efficient, financially sound rail system is a great national asset. The legislation would provide up to \$2 billion in Federal loan guarantee authority to finance improvements in rights of way, terminals, rail plant facilities, and rolling stock. Naturally, these loans will be subject to specific conditions in order to assure that the capital improvements being financed will contribute to the overall efficiency of railroad operations.
6. To encourage speedy and rational restructuring of the railroads which will improve their economic health. At present, our railroads are in serious need of restructuring. Basically, the problem is one of excess capacity in some areas, including, for example, excessive duplication of parallel mainlines, and inadequate capacity in other areas. This contributes significantly to the uneconomic and inefficient operation of the railroads. In the past, efforts to restructure the system through merger or various cooperative agreements between railroads have been thwarted by cumbersome regulatory procedures.

This legislation establishes a new procedure which will enable the Secretary of Transportation, as a condition for granting financial assistance, to require applicants to undertake fundamental restructuring actions. This provision will permit the Secretary and the ICC to expedite many merger proceedings and facilitate some of the restructuring necessary to preserve a viable private sector rail industry.

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SECTION-BY-SECTION ANALYSIS

1. Railroad Ratemaking and Abandonment. This section more clearly defines the principles of ICC ratemaking powers in terms of particular actions that may or may not be taken. For example, the ICC may not find rates too low if they cover a carrier's costs; the ICC is prohibited from protecting one carrier against competition from a carrier of another mode; the ICC is instructed to consider the effect of rates on transportation efficiency in exercising its decision making authority, etc.

The RRA also establishes new procedures to ensure adequate prior notice of proposed rail abandonment actions.

2. Anticompetitive Practices of Rate Bureaus. This portion of the bill provides for the removal of antitrust immunities from certain anticompetitive rate bureau practices. Such action will prohibit collusion on rates for single-line freight movements; limit participation in rate actions to those carriers actually involved, and prohibit joint actions to protest or request suspension of rates.

In addition, the bill requires rate bureaus to maintain voting records on each of their members which are open to public inspection, and requires bureaus to act within 120 days on any rule, rate, or charge appearing on its docket.

3. Intrastate Railroad Rate Proceedings. The Act gives the Interstate Commerce Commission authority to determine an intrastate rate which is the counterpart of an already approved interstate rate in the event that the appropriate State agency has failed to take final action on a rate change within 120 days from the time it was filed by a carrier.

4. Suspension of Railroad Rates. One of the basic purposes of the RRA is to provide increased pricing flexibility for the railroads. Section 5 of the Act establishes a phased approach to providing the necessary flexibility and specifically limits ICC suspension powers. It permits railroads to adjust rates up or down without fear of ICC suspension so long as the change is within certain percentage limits: 7 percent in the first year; an additional 12 percent in the second year; and another 15 percent in the third year. Such an approach will result in the creation of a control-free "zone of reasonableness" of approximately 40 percent during a three-year phase-in period. Following the third year, the ICC may not suspend a rate decrease for being too low, so long as a carrier's costs are covered. Similarly, rate increases of 15 percent or less will not be subject to ICC suspension. In cases where the ICC retains the power to suspend rates, they will be required to make findings such as a court does when it issues a temporary restraining order -- that the action will result in immediate and irreparable damages.

In addition, the bill sets a 7-10 month time period for completion of hearing procedures in rate cases. In cases involving large capital expenditures (\$1,000,000 or more), the ICC will be required to act within 180 days after the filing of the notice of proposed tariff. To encourage investment and provide a period of stability, such rates may not be suspended or set aside for a period of 5 years.

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5. Railroad Revenue Levels. The Act provides that the ICC shall prescribe uniform criteria for determining the financial condition of a railroad, including such things as estimating the rate of return on capital and adequacy of cash flow.
6. Discriminatory Taxation. Section 7 of the RRA adds a new provision to the Interstate Commerce Act prohibiting the levying of discriminatory State or local property taxes on common carriers, thus eliminating excess taxes on railroads of approximately \$55 million annually.
7. Uniform Cost and Revenue Accounting. This section requires the ICC and the Department of Transportation to study and recommend uniform cost accounting and revenue accounting methods for rail carriers. Present accounting systems are outmoded and inadequate to resolve the complex cost accounting problems of modern transportation firms.
8. Financial Assistance. The Act authorizes the Secretary of Transportation to issue loan guarantees of up to \$2 billion for the purpose of financing improvements in rights of way, terminals, rolling stock, and other operational facilities. These loan guarantees will be based on (a) the contribution the proposed improvement will make to the betterment of our nation's rail system, (b) the ability of the recipient to repay the loan, and (c) the recipient's ongoing program to upgrade his physical plant. Loans guaranteed by the Secretary may be financed through the Federal Financing Bank. As a condition for granting the assistance, the Secretary may require the applicants to undertake specific restructuring actions. This section establishes a new procedure by which the Secretary, the Attorney General, and the ICC can expedite approval of restructuring activities and assure a proper balance between competitive interests and transportation needs.

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MAY 19, 1975

Office of the White House Press Secretary

THE WHITE HOUSE

TO THE CONGRESS OF THE UNITED STATES:

I am today sending to the Congress the Railroad Revitalization Act. This legislation is the result of several years of study and consultation with industry and Congressional authorities. It builds on the Surface Transportation Act which was overwhelmingly passed by the House of Representatives last December. In view of the prior work in the 93rd Congress and the serious needs of the Nation's railroads, I am confident that the Congress can and will act quickly.

The purpose of this legislation is threefold: (1) To improve the regulations under which the railroads operate and promote economic efficiency and competition, (2) to provide necessary financial assistance to improve and modernize rail facilities, and (3) to encourage rational restructuring of the Nation's railroads and improve their long-term viability. To achieve these objectives, the legislation proposes specific amendments to the Interstate Commerce Act to permit increased pricing flexibility, to expedite ratemaking procedures, to outlaw anticompetitive rate bureau practices and to improve and expedite merger and other restructuring actions. In addition, the bill will make available \$2 billion in loan guarantees.

Submission of this bill is part of my Administration's overall program to revitalize our entire free enterprise system. It is the first of several legislative proposals seeking fundamental reform of the regulatory practices which govern the economics of the transportation industry. Such regulation, established long ago, in many instances no longer serves to meet America's transportation or economic needs. Consumers too often bear the costs of inefficient regulation in the form of either inadequate service or excessive cost. Therefore, in addition to this railroad bill, I will soon submit proposed legislative reforms for both trucking and airline regulation. Taken together, these proposals, when enacted, could save consumers billions of dollars annually and conserve substantial amounts of scarce energy resources.

While I recognize the state of our entire transportation system needs treatment, I am well aware that the Nation's railroads are in a crisis. Large parts of the rail system are in a state of physical deterioration. Some railroads are in bankruptcy and others are on the brink of financial collapse. For this reason, I am sending to the Congress railroad reform proposals first, and I urge action without delay.

The rail problem has been neglected too long and the desperate condition of the industry is indicative of this neglect. We must begin at once a major and massive initiative to restore the vitality of this essential industry. I have established for this Administration a goal that calls for the complete revitalization of the Nation's railroad system so it can serve the needs of modern America. We are moving

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forward with a program to assure a healthy, progressive rail system. The Railroad Revitalization Act is a critical part of this program. I have directed the Secretary of Transportation to lead this effort and to make its achievement one of his prime concerns.

A major problem faced by the railroad industry is outdated and excessive Federal regulation. Much regulation, originally imposed to prevent monopoly abuses and promote development in the western States, has long since outlived its original purposes. Indeed, Federal regulation has grown so cumbersome that it retards technical innovation, economic growth, and improved consumer services. The legislation I propose will improve significantly the regulatory climate in which all railroads operate. Removal of unnecessary and excessive regulatory constraints will enable this low-cost, energy-efficient form of transportation to operate more effectively, to provide better service, and to more fully realize its great potential. The increased efficiencies resulting from these reforms will produce energy savings on the order of 70,000 barrels of oil per day.

In addition to improving the regulatory environment in which the Nation's rail system functions, this legislation will make available to the rail industry financial assistance which it must have to accomplish necessary modernization of outdated plant and equipment. This assistance will be in the form of \$2 billion in long-term loan guarantees so that the Nation's railroads can repair deteriorating roadways and obtain badly needed modern equipment and facilities at reasonable costs. In addition, discriminatory State taxation of the rail industry will be outlawed.

The legislation will also provide special procedures to hasten major restructuring of the rail industry by enabling the Secretary of Transportation, as a condition for granting financial assistance, to require applicants to undertake fundamental restructuring actions. These actions will be governed by expedited merger procedures under which the Secretary and the ICC can facilitate the desired restructuring. I have directed Secretary Coleman to take all steps necessary to cooperate with the Congress so that this important and vital legislation can become law in the very near future.

In view of the rail system's role in our Nation's economy, I urge the Congress to give this measure immediate consideration. The importance of regulatory reform to the efficiency of our transportation system cannot be over-emphasized. While special interests may resist these necessary changes, I am confident that the benefits to the American people will be so great and so clear that the Congress will act quickly.

GERALD R. FORD

THE WHITE HOUSE,

May 19, 1975.

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OFFICE OF THE WHITE HOUSE PRESS SECRETARY

THE WHITE HOUSE
PRESS CONFERENCE
OF
WILLIAM T. COLEMAN, JR.
SECRETARY OF THE
DEPARTMENT OF TRANSPORTATION

THE BRIEFING ROOM

3:04 P.M. EDT

MR. NESSEN: Let me give you two quick announcements before we have Secretary Coleman.

One has to do with the President's decision on the strip mining bill. I do think we are going to have that ready to go and have the briefing by Frank Zarb at 4 o'clock. I will have a better idea after Secretary Coleman's briefing.

Steve?

Q Can we call that before we get tied up in this for 40 minutes?

MR. NESSEN: No, I would not because it is still a little shaky. It is for 6 o'clock release, anyhow.

Q I am talking about a technical call, Ron, in terms of true coverage and that sort of thing.

MR. NESSEN: Hurry on, then.

Secondly, some of you expressed an interest in getting the President's remarks over the telephone last night to the businessmen's dinner in New Hampshire.

We have obtained a recording of it from the people up there. You don't see the humor in that, do you? It is coming to you. We are in the process of transcribing it for you, and we will have it for you later today.

MORE

To answer your questions and give you further explanation of the railroad legislation, of which you already have copies, we have Secretary Coleman, the Secretary of Transportation.

We also have Jim Cannon, the Director of the Domestic Counsel; John W. Barnum, who is the Deputy Secretary of Transportation; John Snow, the Deputy Under Secretary; and Ace Hall, the Federal Railroad Administrator. Between them they ought to be able to answer all your questions.

Mr. Secretary?

SECRETARY COLEMAN: President Ford is sending the Railroad Revitalization Act to Congress today. This legislation is designed to meet immediate and desperate needs of the Nation's railroads. It is a new Presidential initiative to restore the vitality of the Nation's railroads.

As you know, every American is served by low-cost, fuel-efficient rail transportation. The railroads are a pivot point for our entire economy.

But, the railroads are in deep trouble. A number are bankrupt. Others are on the brink of financial collapse. The terrible deterioration of track and rail cars prevents efficient operation.

The Railroad Revitalization Act will begin a long overdue effort to restore and revitalize this essential industry by eliminating excessive regulatory restrictions and by providing critically needed financial assistance.

A major cause of the deterioration of the railroad industry is an overly restrictive Federal regulatory system. The regulatory process has retarded technical innovation, impeded economic growth, and hampered the improvement of services.

The Railroad Revitalization Act will remove unnecessary and excessive regulatory restraints. The main thrust of the reforms is to place greater reliance on competitive forces, while preserving protection for shippers, carriers and labor.

The ratemaking provisions of the act will cause a reduction of rates that are too high and unfair to shippers, and will cause an increase of rates that are too low and not compensatory to carriers.

Railroads will be able to adjust their rates within a "no suspend zone." The ICC also would be prohibited from holding up a rate of a carrier for the purpose of protecting a carrier of a different mode of transportation.

MORE

Among the other regulatory reforms proposed are an acceleration of the ICC's review process in cases of new services requiring a capital investment of \$1 million or more, restrictions on the anticompetitive activities of rate bureaus, an improvement in intrastate ratemaking procedures, and the prohibition of discriminatory taxation of railroad properties.

Regulatory reform is one part of the long-term restoration process. To meet the immediate need for essential improvements in roadbed, track, terminals and other operating facilities, the act provides \$2 billion in loan guarantee authority.

Loans guaranteed under the provisions of the act may be financed through the Federal Financing Bank, thus enabling railroads to borrow at rates more advantageous than private financial markets.

Additionally, the Secretary of Transportation would be authorized to defer principal and interest payments, thus making feasible major rail undertakings that hold little prospect of short-term payoff, but which would improve earnings over the long term.

Duplicative and redundant facilities are another major cause of the poor financial health of railroads. If we are to prevent the westward spread of the chaos now existing in the Northeast, a restructuring and streamlining of the national rail system must be set in motion. The laborious deliberations of the ICC are inadequate to meet this need.

Thus, as a condition of receiving loan guarantees under the act, we propose that a railroad may be required to enter into an agreement to restructure its facilities. Such restructuring could be in the form of merger, consolidation, sale or acquisition of assets or joint operation.

The procedures proposed by the act would enable a coordinated Department of Transportation-ICC decision on such agreements within nine months, in stark contrast to the ICC's 12-year deliberation in the case of the Rock Island.

I just left the President, and he has instructed me to use all my efforts to cooperate with the Congress to see that this legislation gets enacted immediately.

The only other thing I would like to say is that I think that the American people ought to know the process that is now going in to making policy determinations where we do have the opportunity -- Cabinet officers and others -- to meet directly with the President.

MORE

Even though there have been other events in the country, such as Cambodia, that have taken more time, I think you would be amazed at the amount of time and effort that the President has given to resolve some very basic fundamental problem. I urge the Congress to act quickly to get this legislation on the books.

I am now available for any questions that you might have.

Q Mr. Secretary, as we understand it, this program is to get the Government off the back of the railroads and other transportation. How do you square that with the fact that you will be permitted to order the restructuring of the railroads before you may provide Federal assistance?

SECRETARY COLEMAN: We think that if Federal money is going to be used, or guaranteed, that certainly, as a public official and as Administration, you have to see that it is spent wisely. There is no doubt that today there is a great duplication of facilities. I just don't think as a public official that one can be making loans to a railroad to operate duplicate facilities when they should be combined.

Take the Rock Island situation, for example. There are six separate railroads that serve the area between Omaha, Nebraska and Chicago. Now, certainly it would not be in the public interest to make a guarantee when you are going to remain with those six railroads still operating, covering the same territory, and none of them doing it properly.

Q Mr. Secretary, this \$2 billion figure, what is your estimate? Is that the total need or what is your estimate of the need to fix up, for example, all the roadbeds?

SECRETARY COLEMAN: You first have to make a fundamental determination of how much of the existing system is essential to having a first-class national transportation system.

As you know, USRA indicated that within the Northeast there should be a reduction of lines. One of the provisions of the bill is that the Secretary of Transportation and the ICC, would make a study and in 90 days would list those lines which would be low density as against the other lines.

Therefore, until that is decided, you just would not have the final figure. Our tentative figure in the Department is that to have a vital first-class railroad system in this country within the next six or seven years, that you would have to spend \$101 billion.

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Of that amount of money, if the railroads presently continue to spend what they have been spending in the past, this \$71 billion that will be spent in addition to the regulatory reform that we suggest here -- and the other changes -- that we think that there would be an additional \$17 billion generated.

If my arithmetic is correct, I think that leaves a shortfall of about \$9.5 billion to be spent over the next ten years. We think that this proposed legislation would be an essential step towards trying to get what we are determined to get -- the railroads back in first-class operation -- and we think that it will be enacted by the Congress, which will go a long way toward doing that.

Q Could I follow that up? If you think that there is a shortfall of \$9.5 billion in that arithmetic, why do you pick \$2 billion for the amount?

SECRETARY COLEMAN: Well, because the shortfall is over a period of ten years, and obviously this fund is a revolving fund, and as loans are made and are paid off, or the money goes back into the revolving fund, that fact has to be taken into consideration.

Secondly, we feel that if the Congress and the department take a strong look at this problem and really get the railroads down to the operating size, that they ought to be to eliminate the duplication of the lines, the way you have low density lines, for example. There is an option that any shipper or any Governor that wants to subsidize that line to keep it in operation will have the opportunity to do so, that we think that this is an essential first step and that the Congress should move forthwith.

Q Where does the \$17 billion come from?

SECRETARY COLEMAN: That is just from the normal improvement that would help if you could do away with the regulatory lag, if you have a more intelligent method of regulation, and if you could permit the railroads to begin to restructure and end duplications of lines and that sort of thing.

Q Mr. Secretary, what guarantee are you giving that rates will come down under the bill? You say it does. They will come down, but what guarantee are you giving that they will not go up?

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SECRETARY COLEMAN: I would say that this bill will tend to restore the competitive force that should be in existence between the trucks, the barges and the railroads, and therefore in a free competitive system, freight rates will tend to be where the market-place would place them.

On balance, we think it would be the efficient railroads -- they will come down. Now, of course, let's be fair. You do have labor cost problems. You have the cost of fuel and you have other things, so they will have to adjust to that.

Q So, you are not guaranteeing that this is going to lower the freight rates?

SECRETARY COLEMAN: We do say that under the present situation we know, first, that rates will continue to go up; secondly, you won't get the good service, and thirdly, the problem in the Northeast will continue to expand Westward, and we want to stop that.

Q Mr. Secretary, word is already out that the truckers lobbies and others are mounting a campaign against your reform legislation. Do you want to address yourself to that?

SECRETARY COLEMAN: I hope that once they see the legislation they will realize it is in the public interest. On the other hand, I guess as competitive forces are beginning to mount that type of campaign, one, it indicates the courage of the President, and secondly in part supports the merits of this bill.

This bill does go to the immediate problem of trying to restore the American railroad's position. They are an essential industry in this country, and that is what we are attempting to do. We are going to follow it with legislation dealing with the trucking industry and also legislation dealing with the airline industry.

Q Have you done any nose counting up there as to what Administration effort it would take to push this through?

SECRETARY COLEMAN: Whatever it takes, we will do it, sir. We have been working on the bill. We certainly have had some informal discussions. We intend to continue to have such discussions.

As you know, there was a bill which passed the House last year and didn't get through the Senate because they didn't have time. We think this bill has even more initiative in it than the former bill, but we are convinced that this is the way to solve the problems of the American railroads.

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I intend to use all of my energy, and Deputy Secretary Barnum intends to use his energy; and Mr. Snow, who had a lot to do with forming the policy, intends to do it. We are going to get the job done. It may take a lot of trouble, but we are going to get it done.

Q Mr. Secretary, on the loan program, under what act will the loan be issued?

SECRETARY COLEMAN: Under the bill, the loan can be under the Federal Financing Act, and as you know, that permits you to have an interest rate one-quarter of one percent higher than the rate at which the Government is making its borrowing. One-quarter of one percent.

Q Now much below the market rate is that?

SECRETARY COLEMAN: It is about two or three points below.

Q Two or three points. So, what is the substantive factor there?

SECRETARY COLEMAN: Well, that is two or three points. The interest, you pick a figure. It would be somewhere, then, maybe \$50 to \$100 million.

Q On the \$2 billion?

SECRETARY COLEMAN: Yes, but this is a revolving fund. Secretary Simon does a wonderful job of keeping the money at work. I make some arguments with him on some other darn good interest rates.

Q Mr. Secretary, won't this lead to other decreased loans, such as electric utilities, and low interest by the Federal Government?

SECRETARY COLEMAN: I think that the Administration loans --you leave aside the question of war and peace--the Administration is expending its effort in attempting to correct and change those economic problems that exist in this country.

We think, basically, it should be done through the private sector. We do have initiatives. I know that Secretary Dunlop is working on certain problems in the electrical industry.

I know that Vice President Rockefeller is working on them. I know that Jim Cannon is working on them. And I know that the President is working on them. We are going to turn this country around. We are going to get the job done and that is what we have been trying to do.

MORE

Q Mr. Secretary, some of the things you said indicated that you were opposed to the plan that Justice presented at the Kennedy hearing. Did you have reservations about this plan as being proposed?

SECRETARY COLEMAN: This plan?

Q Yes.

SECRETARY COLEMAN: I have no reservations about this plan. I am going up to the Hill. I am going to defend it to the best of my ability.

Q Do you have reservations about the plan that was laid out by the Justice Department at the Kennedy hearing on the CAB?

SECRETARY COLEMAN: As you know, the CAB has nothing to do with the railroads.

Q This is a package that the President is talking about, and you have two more coming.

SECRETARY COLEMAN: The President is a great leader, gentlemen. We will have a lot of debate but the Administration will be together on all these issues. When we go up to the Hill, we will speak as one voice.

Q How do you translate this bill into lower passenger fares, or does it get into that?

SECRETARY COLEMAN: As you know, we have a separate piece of legislation which actually we got through both Houses, and it is waiting for the President's signature -- the Amtrak bill -- and that is the passenger bill.

Obviously, to the extent that you begin to rehabilitate these lines that carry freight, since they also carry passengers, that ought to reduce the cost of the passenger.

I don't think the press has sufficiently appreciated the extent to which the Department of Transportation has gone forward to try to put the passenger business on a more rational basis. The Congress supported the bill, as both Houses have passed it, and now it is awaiting the signature of the President, and I am pretty sure he will sign it.

Q Mr. Secretary, going along to the loan program, I want to make sure I understand it. You will have the revolving fund and the Government, in effect, will be subsidizing --

MORE

SECRETARY COLEMAN: Wait a minute. All those won't be made below that rate. The loans will be made at the going rate. The Secretary of Transportation has the authority to fix it at a lower rate. It depends upon the company.

I mean, there are certain companies that have ability to pay in certain situation where, for example, a new line will be built. It will be built to go in and get coal. Once it gets the coal, it obviously will be a very profitable operation, but because of the time lag between the time of building and the time of the line actually bringing out the coal may be five years, it is proposed that the Secretary of Transportation has the authority to defer the payment on interest, to defer the payment of principle, but the bill provides that when it is deferred that then there will be interest on the interest.

So, you can't say that every railroad that comes up to borrow money will get it at a favorable rate of interest.

Q But there will be an expenditure of Federal funds out of the Treasury, right?

SECRETARY COLEMAN: It will be a loan which will have to be paid back.

Q My point is this: Does this violate in any way the President's ban against new spending programs?

SECRETARY COLEMAN: I would say no.

Q Why?

SECRETARY COLEMAN: Why? Well, the first thing, the interest rate is one-quarter of one percent above what the Government pays, so by definition, even at the lower interest rate, the Government is getting back more money than it is paying.

So, that is a short answer to your question. I mean, the interest rate will be one-quarter of one percent more than what the Government has to borrow the money, so therefore, it would end up that the Government would not be subsidizing and paying out in interest, borrowing money of greater sum than it is going to be getting back from the railroad.

Q In other words, you won't be spending Federal money out of the Treasury?

SECRETARY COLEMAN: That is correct, yes.

MORE

Q Mr. Secretary, do you think that the best system for railroads is one in which there are competing railroad lines operating between, say, Omaha and Chicago, or will one rail line do that job and compete with trucking and barges?

SECRETARY COLEMAN: No, we are presently developing a national transportation policy. I am pretty sure that the policy will state that in any area where there is a major city or major shipping port, or major terminal, that at least two lines should serve that community. We would not suggest that there should be only one line, but we do feel that there is no need to have six lines serving between Omaha, Nebraska and Chicago.

Q Are you saying that between Chicago and Omaha there would be two lines?

SECRETARY COLEMAN: There would be at least two. There may be more than two, but there would be at least two.

Q Mr. Secretary, on the question of nationalization, does the Administration have a position on that?

SECRETARY COLEMAN: Speaking as the Secretary of Transportation, and I think I am also speaking for the President, our position is that we are 100 percent against nationalization.

Q Have you taken a position on the Astro plan?

SECRETARY COLEMAN: We have a study committee of which I am the chairman, and we are developing the Administration position. We will have that position, I hope, by June 23 or maybe sooner.

MORE



Q Mr. Secretary, do you contemplate the possibility that under your authority under the loan part of this bill that you might try to bring about at least one of the transcontinental mergers you have talked about?

SECRETARY COLEMAN: We are going to actively attempt to eliminate duplication of lines. As you know, in my speaking, I have said first, because I believe it, and secondly, because it is the Administration's position, that to the extent possible, private industry ought to be able to solve these problems and, therefore, I am very hopeful that the railroads will come forward with the type of plan which will result in having an efficient rail system, one that is competitive and yet one that is making a profit throughout the country, rather than having one where there are railroads taking losses.

Q So, you would address yourself then to duplication of lines and not end-to-end mergers as far as your authority under the \$2 billion?

SECRETARY COLEMAN: I will attempt, under the act, to the best of my ability, to bring about the type of railroad system that I think, and the department feels, that a long study will best serve the needs of the American people, and that would include doing both. It will take a little bump to get the second done, but I hope we will have the luck to do it.

Q Mr. Secretary, how will this bill affect the United States Railway Association's Northeast plan?

SECRETARY COLEMAN: As I said, we are still developing the Administration's position to the extent to which we feel that that is the way to solve the problem in the Northeast. Obviously, under this act, and also under the bill to set up USRA, there is authority to make certain types of loans. This bill would give us additional authority, and if we feel that the way to solve the problem in the Northeast is by the type of restriction that I think ought to be done, we would certainly use that authority.

Q Why do you send this regulatory legislation up on a piecemeal basis instead of one, overall bill?

SECRETARY COLEMAN: If the press was not here I would say my answer to that would be -- referring to Cassius Clay -- a different stroke for different folk.

MORE

But with the press here, I will have to say the problems in each area are different, and in working with them, you realize that what works in one area does not work in another area. We are convinced that what we are proposing here is the way to handle it with the railroads.

We are actively working, and there is a lot of activity for the airline and a lot of activity for the truckers. We will send each one up as they are finished. We felt that it was not in the public interest to hold this one back until the other two went up. We could not imagine that you could draw up one act which would cover all three situations.

Q Mr. Secretary, would you envision, with respect to the trucks, some similar area of legislating to set their own rates within the general framework?

SECRETARY COLEMAN: There will be freedom of the zone in pricing, yes, but they may not be the same figures that are in this bill, and the problems are just different.

The truckers grew up in a different climate. They used the roads. You there have not only the trucker using the road, but you also have the private automobile using the road, so the problems are just different. You have to realize when you have different problems you have different solutions.

Q Sir, do you expect to have the user charge coming from the barge lines?

SECRETARY COLEMAN: We expect to have the user charge.

Q Fuel tax?

SECRETARY COLEMAN: That is Frank Zarb's bailiwick. I think he is a tremendous public servant, and he can stand here in front of you and tell you what he proposes.

Q What about higher user taxes for trucks?

SECRETARY COLEMAN: We do have a highway bill which we expect to get up to the Congress in the next two or three weeks, and we will make recommendations in that bill as to how we think the taxes should be adjusted from what they were in the previous period.

MORE

Q Are you going to increase them or reduce them?

SECRETARY COLEMAN: I think that we ought to wait until you see the bill. I just don't believe in giving you previews of something which is still in the -- I know you believe it, but I don't believe it -- things that are still being considered, which goes back to my observation at the end of my prepared remarks.

I really think that the American people would feel quite happy, quite secure, if they knew the extent to which we in the Administration are working, and you have a White House staff which is working awfully hard.

The President makes the final decision, and then after that, we come forward and we try to get the legislation through.

Q Mr. Secretary, when you are talking about getting rid of duplication and so forth, are you talking about merger of railroads?

SECRETARY COLEMAN: Sometime it will be by merger, sometime it will be merely by limitation of a line, and other times it will be by agreement of joint uses of the track. It depends. There are various ways of getting rid of duplication.

Q Who decides that a railroad goes out of business or merges?

SECRETARY COLEMAN: Under the act, the initial decision is made by the Secretary of Transportation, and the Secretary of Transportation has to make certain findings.

It is then sent over to the ICC, and the ICC has six months to hold a hearing and to determine whether the Secretary's finding will be supported or not. If they have not reached a conclusion in six months, they get an additional three months, but they have to write a letter to the Congress saying why they could not get it done in six months.

At the end of nine months, if they have not made a decision, it then comes back to the Secretary of Transportation, and I, in consultation and concurrence with the Attorney General of the United States, with respect to the anticompetitive factors, will then determine whether there should be the merger or there should not be the merger.

Of course, all of this in a free and open and legal society is subject to court review.

MORE

Q Sir, does this mean it is going to be easier for railroads to drop unprofitable routes?

SECRETARY COLEMAN: We think that it ought to be, but there is adequate protection in the act in the first place. For the first time, the Secretary, along with the ICC, is supposed to set forth some guidelines as to what constitutes a low density route, and then with those guidelines, the railroads will indicate which lines they consider low density routes, and they will be published.

Then, if they want to abandon those lines, they have to give the proper notice. If the Governor of a State or if the shipper or someone will come ahead and say, "Well, this line is losing "X" dollars, we, by subsidy, will make up the difference," then the line cannot be abandoned.

On the other hand, if it turns out the line is losing money, if there is the notice and there has been the hearing, then obviously there would have to be an abandonment.

MORE



Q Sir, do you think people who are now living and having to trade on the profitable routes or trucks, should they have more fear now if this legislation is enacted than they would in the past that they are going to lose their railroads?

SECRETARY COLEMAN: I would think not. They would have less fear. I think that this act, for the first time, will set up criteria to determine what is the low density route. There will have to be notice so no one can say I built a line or I changed my business based upon your line and then found out that you were going to abandon them.

Third, which I think is a very important provision, even though it is a low density route, even though the railroad is losing money if the Governor of the State or if the shipper wants to come forward and say, "Tell us what you are losing and we will make that up through a subsidy," then the railroad would continue to operate that line.

So here, I think, under the procedure, there will be much less fear that there would be abandonments which were not justified.

On the other hand, you have to face up to the fact that the railroad system did get completed in 1910 and whether you like it or not, a system which was completed in 1910 cannot be the system which best serves the needs of the American people today.

You cannot have a vital railroad system where railroads are operating inefficiently, where they are operating where they are losing money, where they are not able to maintain the track bed, where you have bankruptcies and by any method of charging proper freight rates you cannot cover your costs. So, therefore, you have to, in those situations, make changes.

We have had, in this country since 1956, first under the leadership of President Eisenhower and then followed by every other President, and also with President Ford, a building of an interstate highway system. We spent over \$56 billion. Now, certainly, some of that highway system must have resulted in lines which were formerly serving the community that is no longer needed to serve that community. There has to be change in this country if the country is going to continue to be economically viable. That is what we are trying to do.

Q You talk about increasing competition, yet it seems that we are talking about mergers and dropping routes now to make the railroad service more profitable -- at least causing it to lose less money and make it more efficient. Is that one of the inferences here? It seems to me the emphasis is on really less competition.

MORE

SECRETARY COLEMAN: No, sir. I think you don't realize that when the ICC Act was passed in 1887, there was no such thing as a trucking industry. There was a barge industry, but it certainly was not the industry it is today.

Q You are talking about making it more competitive to other industries.

SECRETARY COLEMAN: To other industries and also to the railroads. It seems to me that if you have two or three very healthy lines serving the major cities and those lines are permitted to charge the rate which is the effective economical rate which covers the cost, that you will have more competition among the railroads than under the present situation where you now have these rate bureaus and the railroads can get together.

Until they do get together, you cannot even file for the decrease or increase in rates. This bill seeks to eliminate that. We don't think that you have more competition when you have six very unhealthy railroads. We think you have tremendous competition when you have two or three very, very healthy railroads.

We think you also have tremendous competition when you have two or three. You also have a very vital trucking industry which is paying its fair share, and you have a vital water barge industry. We think that the rates here will reach the level that economically they ought to reach in an efficient, well-run economy.

Q Mr. Secretary, do you have any sort of estimate right now of how many railroads will be put out of business? Do you have any sort of ball park figure of how many railroads will go out of business or be put out of business because of this bill?

SECRETARY COLEMAN: No, sir.

Q You are getting rid of the dead wood, are not?

SECRETARY COLEMAN: What I am saying is that we will urge that the dead wood become live wood, or if they want to come in and get Governmental help, that they have to get that under rational conditions and we are not going to subsidize the efficiency or duplication.

We are not saying that anybody has to go out of business. I think it is very interesting with respect to the Rock Island that once we took a firm position in saying that we were not going to support it, that the Rock Island somehow is continuing in operation.

MORE

I would like to correct maybe an observation that I made which may be slightly misleading -- I don't like to mislead -- and that is in our present legislation we are not intending to increase the tax on any of the gasoline fuel of the trucks.

THE PRESS: Thank you, Mr. Secretary.

END

(AT 3:40 P.M. EDT)

September 3, 1975

MEMORANDUM FOR: JIM CANNON

**THROUGH: MAX FRIEDERSDORF
VERN LOEN**

FROM: CHARLES LEPPERT, JR.

SUBJECT: Railroad Legislation

The enclosures are from the House Interstate and Foreign Commerce Committee relating to railroad legislation actively under consideration by the Committee.

Committee staff indicates that plans are to write an omnibus bill which will include:

- 1. Railroad Revitalization (based on the bill, H. R. 6351, introduced by Rep. Brock Adams D-Wash.),**
- 2. Enabling legislation for the establishment of CONRAIL,
and**
- 3. Establishment of a trust fund to include all forms of transportation.**

Enclosures

CL:igcb



September 26, 1975

MEMORANDUM FOR:

JIM CANNON

THRU:

**MAX L. FRIEDERSDORF
VERN LOEN**

FROM:

CHARLES LEPPERT, JR.

SUBJECT:

Railroad Revitalisation Bill

Attached is the draft of the Railroad Revitalisation bill which the House Committee on Interstate and Foreign Commerce has begun marking up.

The bill has been introduced as H. R. 9802 and provides for a \$10 billion dollar railroad rehabilitation and regulatory reform program for a period of five years.



November 25, 1975

The attached compares the Senate Omnibus Rail Bill as reported by the Full Committee and the House Omnibus Bill (H.R. 9802) as Amended to date by the Subcommittee.

Some provisions remain unclear because of drafting ambiguities.

All provisions of the House Bill remain open to further amendment by the Subcommittee.

ISSUE

Regional Rail
Reorganization
Implementation

SENATE

Funding - USRA authorized to purchase up to \$3 billion in ConRail debentures and preferred stock. Amount for supplementary transactions is not clear.

Oversight of ConRail Progress--
USRA controls.
USRA can forgive payment of principal and interest on any securities issued by ConRail.

Interest and dividends non-cumulative and payable only when ConRail has retained earnings in excess of \$500 million.

Base value of certificates of value hinged on Special Court's decision as to constitutional minimum.

HOUSE

Funding - USRA authorized to purchase up to \$2.1 billion in ConRail debentures and preferred stock.

Oversight of ConRail Progress--
Government Banking Committee consists of USRA Board Chairman and the Secretaries of DOT and Treasury. The Committee can waive any payment relative to any ConRail securities.

Interest and dividends non-cumulative and payable only out of ConRail net profits.

Similar to Senate bill.

ADMINISTRATION

Funding - USRA authorized initially to purchase up to \$1.85 billion in ConRail debentures and preferred stock. An additional \$250 million is provided as a cushion.

Oversight of ConRail Progress--
Government Investment Committee consists of USRA Board Chairman and the Secretaries of DOT and Treasury. The GIC can waive payments relative to ConRail securities.

Interest and dividends are cumulative, but payable only if sufficient cash is available. When cash is not available, additional preferred stock is issued in lieu thereof.

Base value is net liquidation value determined by USRA

ISSUE

SENATE

HOUSE

ADMINISTRATION

Regional Rail
Reorganization
Implementation
(Continued)

Supplementary Transactions
- must occur, if at all,
within 4 years

- either ICC or USRA
can block

Supplementary Transactions -
- six year period

- DOT's presentation of
proposal to Special Court cannot
be blocked by either USRA or
the ICC. However, ConRail can block.

- Funding comes from
\$2.225 billion account
in section 803.

Like House version, except
\$400 million is specifically
authorized to be appropriated
to DOT to facilitate transactions,
and ConRail cannot block
presentation to Special Court.

Indemnification of Profitable
railroads--

Similar to Senate bill.

Indemnification available
only if the conveyance is
of significant importance
to achievement of the FSP
goals.

The Federal Government
indemnifies all profitable
railroads which participate
in the reorganization.

ISSUE

SENATE

HOUSE

ADMINISTRATION

Total Funding

Establishes a \$4.4 billion Railroad Rehabilitation and Improvement "Trust Fund" for purpose of providing capital to USRA and to provide financial assistance to ConRail and to other carriers.

In addition, a \$1 billion obligation Guarantee Fund is available to USRA to finance improvements to rail facilities throughout the country.

\$3 billion in non-interest bearing loans for NEC.

\$255 million to Amtrak for NEC and other activities.

Adds \$655 million to current \$180 million for rail service continuation subsidies nationwide.

\$125 million for commuter service in Region.

\$75 million (?) for conversion of rail rights-of-way to recreation facilities.

A total of \$9.7 billion.

Establishes Rail Transportation Trust Fund within the DOT Budget, containing the following four accounts --

1) Rail Services Continuation Subsidy Account

-(Preserves existing \$180 million for title IV of the RRRRA)

2) Consolidation, merger, supplemental transaction, and Improvement of Facilities Account.

-Authorizes appropriation of \$2.225 billion thru FY 1980.

3) NEC account

-Authorizes appropriation of \$1.4 billion thru FY 1980.

4) Loan Guarantee for Rail Improvement and Service Account

-\$2 billion ceiling placed on guarantees.

In addition, USRA authorized to acquire up to \$2.1 billion in ConRail securities.

A total of \$7.9 billion.

\$2.1 billion to USRA for ConRail

\$400 million to DOT for supplementary transactions.

\$1.08 billion to DOT for the NEC

\$2 billion loan guarantee program under DOT.

\$180 million for Rail Service continuation subsidies.

A total of \$5.7 billion.

Should be \$4.100 Mill.

ISSUE

SENATE

HOUSE

ADMINISTRATION

Regulatory Reform

1. Pricing Flexibility

a. No-suspend zone

None as such, except there is no suspension of increases if no market dominance.

3-year no-suspend zone of 7% each year. (Does not apply to export rates).

permanent no-suspend zone, phased-in (7, 12, 15% for first 3 years; 15% up, no limit down thereafter).

b. Minimum Rates

Rates which increase going concern value can't be called too low (there is a presumption that rate above variable cost increases value).

Rates above variable cost cannot be called too low.

Same as House (slightly different from Senate).

c. Umbrella Ratemaking

Rates of one mode may not be held up to protect another mode as long as rate increases going concern value.

Rates of one mode may not be held up to protect another mode.

Same as House (slightly different from Senate)

d. "Market Dominance"

Commission loses maximum ratemaking authority except where market dominance.

Commission loses maximum ratemaking authority except where "market dominance".

None

e. Big John

Special procedures for rates involving \$1 million investment.

Same.

Same as House and Senate.

f. Time Limit on ICC hearing

None

7/10 month time limit.

Same as House.

ISSUE

SENATE

HOUSE

ADMINISTRATION

2. Rate Bureaus

a. Single and joint line rates

No discussions, voting or agreements on single and joint line rates after 2 years.

No voting or agreements on single and joint line rates.

Same as Senate except applies immediately.

b. General Rate Increase

Prohibitions do not apply to general rate increases.

Same as Senate.

Prohibitions apply to certain general rate increases after 3 years.

c. Rate Bureau Protests

Rate bureaus may not protest rate of own mode.

Same as Senate.

Same as House, Senate except prohibition applies to all rates regardless of mode.

3. Abandonment

a. Procedural change

Adopts procedural change similar to Administration.

None

More advance notice to communities of abandonment through listing and notice procedure.

b. Substantive change

None

Abolishes 34-car rule (very vague amendment)

None

c. Financial Assistance

8-year subsidy program of \$835 million

None

None

ISSUE

SENATE

HOUSE

ADMINISTRATION

4. Merger

a. Time limit

2 year time limit

Similar to Senate

Time limit imposed; slightly shorter than House and Senate.

b. Substantive change in standard

None

Similar to Administration provision.

New standard and procedure.

The new standard weighs the efficiency gains against any adverse competitive aspects to determine if merger is in public interest. Secretary certifies whether transaction is in public interest, and then ICC makes final decision with "presumption" transaction is in public interest if Secretary so certifies. Secretary's determination is accorded less weight in House proposal than in Administration's. Also, if ICC doesn't make decision within time limit imposed, no provision for return to Secretary, as an Administration proposal.

The new standard weighs the efficiency gains against any adverse competitive aspects to determine if it is in public interest. Proposal first goes to Secretary who certifies if it is in the public interest. Then ICC makes final decision with "presumption" it is in the public interest if Secretary so certifies. ICC may not overrule that determination unless it finds "clear and convincing evidence to the contrary" If ICC doesn't make determination within time limits, it goes back to Secretary and Attorney General for final decision.

ISSUE

SENATE

HOUSE

ADMINISTRATION

Northeast
Corridor
Project
Implementation

--\$3 billion in non-interest bearing loans to upgrade service.

--USRA furnishes funding.

--\$255 million for Amtrak to acquire, manage, and operate NEC properties and to acquire seven other rail properties outside the Corridor used for intercity passenger service.

--Trip times: 2-1/2 hours Washington-New York; 3 hours New York-Boston

--Establishes new NEC Improvement Corporation to carry out program

--Includes off-Corridor lines

--No State or local cost sharing required.

--\$1.4 billion appropriation through FY 1980.

--DOT receives appropriations.

--Trip times - 3 hrs. Washington-New York; 3 hours, 50 minutes New York-Boston.

--DOT may deal with any appropriate party to effect improvements.

--No off-corridor lines involved.

--States required to contribute--

-\$170 million toward NEC improvements

-\$200 million toward improving elements of stations not essential to intercity service.

Generally the same as the House bill except--

\$1.08 billion is appropriated to DOT

States contribute only \$120 million toward NEC improvements.

ISSUE

Rail Service
Continuation
Subsidies

SENATE

Funding - \$655 million added to current \$180 million already in title IV of the RRA. Program lasts for all States through FY, 1983.

Federal Cost Sharing-
100% for 1st year in Region
90% thereafter in the Region
90% at all times outside of the Region.

All Funds allocated under entitlement formula based on State rail mileage.

\$125 million for continuing rail commuter service in Region through FY 1978

\$25 million for each of FY 76, 77, and 78 for conversion of abandoned rail rights-of-way to recreation facilities. Interior gets 4/5 of the funds.

HOUSE

Currently the bill makes no changes in this area. Further amendments may be expected.

ADMINISTRATION

- 2-year program
- 70%-30% cost sharing throughout
- Program restricted to States in the Region
- Continuation of commuter service to be funded out of existing UMTA authorization.

THE WHITE HOUSE

WASHINGTON

December 3, 1975

MEMORANDUM FOR: MAX FRIEDERSDORF

THROUGH: VERN LOEN

FROM: TOM LOEFFLER *T.L.*

SUBJECT: Ray Warner's Status Report
on Interstate and Foreign
Commerce Committee Pending
Railroad Legislation

Although plans had been made for Chairman Rooney to visit with Secretary Coleman Tuesday evening, the meeting did not take place. During Tuesday's subcommittee mark-up of railroad legislation, Congressman Skubitz became very upset over the fact that amendments were not being accepted. As a result, prior to the end of the mark-up session, Congressman Skubitz publicly stated that he saw no reason for the Secretary of Transportation and Congressman Rooney to meet immediately subsequent to the conclusion of the subcommittee mark-up.

Ray Warner states that there is now a meeting scheduled in Congressman Sam Devine's office at 9:30 on Thursday, December 4. Secretary Coleman will meet with the minority members of the Interstate and Foreign Commerce Committee in an effort to seek the Members' advice on how to proceed.

At this time tentative arrangements have been made for Secretary Coleman to meet with Chairman Staggers and Congressmen Devine, Rooney, Skubitz, Adams and Hastings sometime on Monday, December 8. Ray Warner also reported that the full committee may possibly begin final mark-up of the railroad legislation on Tuesday, December 9.

cc: Vern Loen
Charlie Leppert



THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

December 16, 1975

Honorable John J. Rhodes
Minority Leader
House of Representatives
Washington, D.C. 20515

Dear Mr. Rhodes:

Before H.R. 10979 goes to the House Floor tomorrow morning, I want to make clear the major concerns that I have over the pending action on this bill.

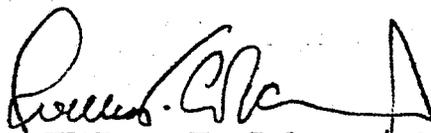
The Administration believes that there are several amendments to the bill which need to be adopted. First, the funding authority for rail rehabilitation and improvement in section 802 of the bill should be reduced from \$1 billion to \$500 million. Second, the obligational authority of USRA in section 902 should be cut from \$500 million to \$235 million, with only \$200 million of this to be available under section 910 to meet obligations on behalf of a railroad in reorganization in order to permit continued, orderly operations after conveyance pursuant to the Final System Plan. Third, section 902 should be amended to provide that ConRail must pay dividends on the Government-held preferred stock when cash is available and there is no prohibition of total repayment of ConRail's indebtedness to the Government. Fourth, section 906 dealing with supplemental transactions should be amended to prevent ConRail from exercising veto power over proposals for supplemental transactions. Fifth, section 205, dealing with the Office of Rail Public Counsel, should be eliminated. Finally, section 304, concerning rate bureaus, needs to be amended to remove antitrust immunity for agreements and voting on rates of general applicability.

In addition, we anticipate that certain special interest groups may try to change at least two important provisions presently contained in the bill. These are section 904 dealing with the certificates of value issued to the estates of the bankrupt railroads and section 302 concerning downward pricing flexibility for railroads. We would strenuously oppose any attempt to change the bill in these regards.



Although there are other provisions in the bill with which the Administration disagrees, such as providing deficiency protection for state, regional, or local transportation authorities who acquire rail property pursuant to the Final System Plan, I am hopeful that these problems can be resolved satisfactorily in Conference. If the positions outlined on the preceding page are incorporated in H.R. 10979, and no other major changes are made, I will recommend that the President support the bill.

Sincerely,



William T. Coleman, Jr.



Office of the White House Press Secretary

THE WHITE HOUSE

FACT SHEET

RAILROAD REVITALIZATION AND REGULATORY
REFORM ACT OF 1976 (S.2718)

The President today signed the Railroad Revitalization and Regulatory Reform Act of 1976 (S.2718). This omnibus bill provides long overdue regulatory reform, makes it possible to reorganize the bankrupt Northeast and Midwest railroads, and authorizes necessary financial assistance for upgrading rail facilities.

Key provisions of the bill include:

1. Reform of economic regulation of the railroads through increased reliance on market competition and improvements in ICC regulatory procedures.
2. Establishment of a financing mechanism and other procedures to permit the transfer and rehabilitation of rail properties to reorganize seven bankrupt railroads into ConRail, a new for-profit corporation.
3. Establishment of a financial assistance program to help improve worn out physical facilities and encourage desirable restructuring.
4. Improvement of rail passenger service in the Northeast Corridor.
5. Continuation through subsidy of selected freight and commuter rail service.

BACKGROUND

During 1975, the Administration proposed four bills to help solve the difficult problems of the Nation's railroad industry.

- In May, the Administration submitted the Railroad Revitalization Act which called for the elimination of outdated regulation and increased reliance on competition in the railroad industry. This was one of three proposals seeking to reform transportation regulation. The Aviation Act of 1975 submitted in October and the Motor Carrier Reform Act forwarded in November are also part of the Administration's regulatory reform program. (See Fact Sheet accompanying the State of the Union Address, January 19, 1976.)
- In September, the Department of Transportation and the United States Railway Association (USRA) jointly proposed the Second Regional Rail Reorganization Act to implement the Final System Plan. This plan proposed a new corporation, ConRail, to provide essential freight service in the Northeast and Midwest.
- The Local Rail Service Amendments of 1975 were submitted in October to amend the subsidy provisions of the Regional Rail Reorganization Act.

more



- In November, the Administration offered its plan for improvement in high speed, intercity passenger service between Boston and Washington.

The Act signed today incorporates most of the provisions of these four proposals. It authorizes \$6.4 billion in appropriations and loan guarantees. It is the product of negotiation, compromise and cooperation between Congress and the Administration and provides the tools which are necessary to rebuild the long-term economic health of the rail industry.

SUMMARY OF THE BILL'S PROVISIONS

Title I - General Provisions. This includes the Declaration of Policy setting forth the purposes of the legislation, i.e., maintaining a viable private sector rail system and providing more efficient, effective and economic rail transportation.

Title II - Railroad Rates. The bill provides the railroads significant pricing flexibility and sets new standards for determining just and reasonable railroad rates. It directs the ICC to promulgate standards and procedures for determining railroads revenue levels and prohibits the ICC from protecting rail carriers against competition from other modes. The bill also takes preliminary steps to reform anticompetitive practices of railroad rate bureaus.

Title III - Reform of the Interstate Commerce Commission. The bill makes several beneficial changes in ICC procedures which will expedite the regulatory process and make it more intelligible. For example it sets specific time deadlines for decisions and directs the ICC to undertake a comprehensive reform of its rule-making provisions. In addition, this section prohibits discriminatory taxation of railroad property and requires ICC to establish a uniform cost accounting system.

Title IV - Mergers and Consolidations. The bill imposes specific time limits on merger proceedings and gives the Secretary of Transportation a new role in expedited merger procedures to encourage desirable restructuring of the railroads.

Title V - Railroad Rehabilitation and Improvement Financing. The bill establishes a Railroad Rehabilitation and Improvement Fund in the Treasury to provide needed capital for the maintenance, rehabilitation, improvement and acquisition of facilities. It authorizes the Secretary of Transportation to sell \$600 million of "fund anticipation notes" to the Treasury as an initial source of revenue for the fund. The Secretary may then use money in the Rail fund to purchase "redeemable preference shares" from the railroads. These redeemable preference shares will in effect provide low-interest, thirty-year loans to the railroads. Additional financial aid in the amount of \$1 billion is provided through loan guarantees administered by the Secretary of Transportation. The bill also provides labor protection similar to that in the Regional Rail Reorganization Act of 1973.

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Title VI - Implementation of the Final System Plan. The bill establishes a Finance Committee of the USRA Board of Directors, independent of the Board, to act as a check on proposed USRA investments in ConRail securities. It authorizes investments of \$1 billion in ConRail debentures and \$1.1 billion in series A preferred stock. The bill empowers the USRA to set the initial terms and conditions governing the purchase of ConRail securities and specifies the conditions under which the Finance Committee may halt or modify proposed USRA investments. To allow for continuing reorganization of the railroads, the bill establishes a procedure for effecting supplemental transactions including transfer of ConRail property to railroads outside the region. In addition the bill assures that the bankrupt railroads will receive fair and equitable value for properties transferred to ConRail.

Title VII - Northeast Corridor Project Implementation. The bill authorizes \$1.75 billion for upgrading intercity rail passenger service in the Northeast Corridor. It requires AMTRAK to purchase or lease rail properties as designated in the Final System Plan for improved passenger operations and establishes specific goals for the Boston-Washington improvement project. Within 5 years after enactment, the bill calls for regularly scheduled dependable service between Boston and New York within 3 hours and 40 minutes and between New York and Washington of 2 hours, 40 minutes. The Secretary is required to coordinate all transportation programs related to the Corridor and to report to the Congress within two years regarding the feasibility of further decreasing trip times.

Title VIII - Local Rail Service Continuation. The bill authorizes the Secretary to provide aid to the States to subsidize the continuation of essential local service when discontinuance or abandonment by a rail carrier is proposed. It amends the Federal share of rail continuance assistance to a five-year program starting with 100% in the first year and decreasing to 70%. It also establishes a specific program to assist State and local commuter authorities to subsidize continuation of commuter services threatened by abandonment as a result of this Act.

Title IX - Miscellaneous Provisions. This section calls for a variety of actions including a comprehensive study of the Nation's rail system, a study of Federal aid to rail transportation, and the establishment of a Minority Resource Center within the Transportation Department to publicize and further minority business opportunities on rail-related projects.

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FEBRUARY 5, 1976

Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

I am pleased today to sign the Railroad Revitalization and Regulatory Reform Act of 1976. For more than a century, the railroads have been the backbone of our American transportation system. However, our rail system has recently been through troubled times. Now, this historic legislation will help restore the health and vitality of our Nation's private railroad system in a number of ways: First, this legislation encourages revitalization of our deteriorating rail freight system both in the Northeast and Nationwide. Second, it will provide substantial improvements in rail passenger service in the densely populated Northeastern United States. And finally, it will remove many unnecessary regulatory restrictions which for too long have hindered the ability of our railroads to operate efficiently and competitively. The actions set in motion by this legislation will make a significant contribution to our objectives of economic growth through private job creation, energy independence and a strong private transportation system.

The task of revitalizing the Nation's rail freight system will not be easy. ConRail, the new corporation established to operate the properties of the bankrupt railroads in the Northeast and Midwest, certainly does not have a smooth road ahead. Nevertheless, I believe that this legislation provides the tools to make the reorganization of the bankrupt railroads a success. We expect that within 5 years ConRail will overcome the unprofitable legacy of the bankrupt lines. If ConRail is to succeed, however, the continued cooperation of all of you who have made this legislation possible is absolutely essential.

The bill also provides needed financial assistance to help the railroads improve their physical plant and encourages desirable restructuring of rail services both in the Northeast and Nationwide. The bill explicitly provides \$1.6 billion to rehabilitate and improve worn out plant facilities and directs the Secretary of Transportation to provide the necessary leadership in making our Nation's rail system more efficient. It may be that the reorganization of the bankrupt railroads in the Northeast and Midwest can be finally successful only as part of a further restructuring of the rail industry through private sector initiative.

This Act also permits us to begin a program of overdue improvements in rail passenger service in the densely populated Northeast Corridor. Passenger service between Washington, New York and Boston will be made both reliable and comfortable, with trains traveling at speeds which are as high as technologically feasible and financially realistic. Within 5 years, we should have trains traveling at speeds of up to 120 miles per hour. In addition, through a joint effort by the Federal Government and the States and local communities involved, we will refurbish the stations along

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the way to make train travel more attractive and convenient. All of the work done as part of this program will provide a base for further improvements and developments. I have asked Secretary Coleman to make the implementation of improvements to the Northeast Corridor a high priority.

In addition to providing short-term financial assistance, Congress in approving this legislation has taken a fundamental step to restore the long-term economic health of this vital American industry. The regulatory reform provisions in this bill are long overdue and I commend the Congress for this farsighted and necessary action.

This kind of fundamental change in Government policy takes time. Every President since Harry S Truman has called in vain for increased competition and reform of our regulated industries. For example, the Landis Report commissioned by President-elect Kennedy in 1960 recommended major policy revisions in transportation regulation. But for more than a quarter of a century, the Nation has had no results. In contrast, the Railroad Revitalization and Regulatory Reform Act is the first significant reform of transportation regulation by any Administration -- or Congress.

An equally important task facing us now is to extend the principles of reform embodied in this legislation to the aviation and motor carrier industries. In these industries, we must strive to create a regulatory climate which relies on competitive forces, rather than on inflexible and bureaucratic directives of Federal agencies, to determine which firm will provide the desired transportation services and at what price. The time has come to place greater reliance on market competition.

I would also emphasize that the ultimate success of this legislation depends on more than the actions that have been taken by the Congress or this Administration. We have merely provided the tools which can be used to rebuild our railroads. I am confident that the Interstate Commerce Commission, ConRail and United States Railway Association will use these tools wisely for the purposes intended by the Congress and the Executive. A major responsibility for achieving a viable private sector railway system and, as stated in the legislation, "to provide energy efficient, ecologically compatible transportation services with greater efficiency, effectiveness and economy" rests with them.

We are embarking today on an historic endeavor to improve transportation in this country. I want to thank the members of Congress, Secretary Coleman, the fine people at the Department of Transportation and the representatives of industry and labor for their help. I ask them to continue their efforts to strengthen our private transportation system and to make it the finest in the world.

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